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RICHARD F. GOODSON
R. DANIEL BOWEN JEREMY P. PISCA
COMMISSIONERS

MAX M. SHEILS, JR.
EXECUTIVE SECRETARY

TITLE 49

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PUBLISHER'S NOTE

Amendments to laws and new laws enacted since the publication of the bound volume down to and including the 2012 regular session are compiled in this supplement and will be found under their appropriate section numbers.

This publication contains annotations taken from decisions of the Idaho Supreme Court and the Court of Appeals and the appropriate federal courts. These cases will be printed in the following reports:

Idaho Reports

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Title and chapter analyses, in these supplements, carry only laws that have been amended or new laws. Old sections that have nothing but annotations are not included in the analyses.

Following is an explanation of the abbreviations of the Court Rules used throughout the Idaho Code.

I.R.C.P.	Idaho Rules of Civil Procedure
I.R.E.	Idaho Rules of Evidence
I.C.R.	Idaho Criminal Rules
M.C.R.	Misdemeanor Criminal Rules
I.I.R.	Idaho Infraction Rules
I.J.R.	Idaho Juvenile Rules
I.C.A.R.	Idaho Court Administrative Rules
I.A.R.	Idaho Appellate Rules

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USER'S GUIDE

To assist the legal profession and the layperson in obtaining the maximum benefit from the Idaho Code, a User's Guide has been included in the first, bound volume of this set.

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ADJOURNMENT DATES OF SESSIONS OF LEGISLATURE

Year	Adjournment Date
2009	May 8, 2009
2010	March 29, 2010
2011	April 7, 2011
2012	March 29, 2012

TITLE 49

MOTOR VEHICLES

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CHAPTER 1

DEFINITIONS

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- 49-120. Definitions — S.
- 49-122. Definitions — U.
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49-102. Definitions — A. — (1) “Abandon” means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) “Abandoned vehicle” means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) “Accident” means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "Administrator" means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) "Age of a motor vehicle" means the age determined by subtracting the manufacturer's year designation of the vehicle from the year in which the designated registration fee is paid. If the vehicle has the same manufacturer's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicle shall be deemed to be one (1) year old.

(7) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(8) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. section 5052(a), of the Internal Revenue Code;

(b) Wine of not less than one-half of one percent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the Internal Revenue Code.

(9) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(10) "All-terrain vehicle" or "ATV" means an all-terrain vehicle or ATV as defined in section 67-7101, Idaho Code.

(11) "Amateur radio operator." (See "Radio operator, amateur," section 49-119, Idaho Code)

(12) "Ambulance" means a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

(13) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(14) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title or a driver training course approved by another United States jurisdiction provided the course was taken while an individual was a resident of that United States jurisdiction.

(15) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the Idaho state police which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(16) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

(17) "Authorized emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(18) "Authorized officer" means any member of the Idaho state police, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(19) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(20) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles.

History.

I.C., § 49-102, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 1, p. 151; am. 1990, ch. 391, § 1, p. 1092; am. 1991, ch. 288, § 1, p. 739; am. 1992, ch. 238, § 1, p. 707; am. 1993, ch. 334, § 1, p. 1234; am. 1995, ch. 116, § 25, p. 386; am. 2000, ch. 469, § 107, p. 1450; am. 2003, ch. 87, § 1, p. 265; am. 2008, ch. 18, § 1, p. 25; am. 2008, ch. 409, § 1, p. 1125; am. 2009, ch. 157, § 2, p. 458; am. 2011, ch. 158, § 1, p. 443.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 157, in subsection (10), deleted "traveling on low pressure tires of ten (10) psi or less" preceding "has handlebar steering."

The 2011 amendment, by ch. 158, rewrote subsection (10), which formerly read: "All-terrain vehicle" or "ATV" means any recreation vehicle with three (3) or more tires, weighing under nine hundred (900) pounds, fifty (50) inches or less in width, having a wheelbase of

sixty-one (61) inches or less, has handlebar steering and a seat designed to be straddled by the operator."

Federal References.

Section 5002(a)(8) of the Internal Revenue Code, referred to in subdivision (8)(c) of this section, is compiled as 26 U.S.C. § 5002(a)(8).

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

49-104. Definitions — C. — (1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license. The cancellation of a driver's license is without prejudice and after compliance with requirements, the individual may apply for a new driver's license at any time after cancellation.

(2) "Caravanning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-117(18), Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described in this subsection.

(4) "Certification of safety compliance" means that a motor carrier certifies as part of its registration process that it has knowledge of the federal regulations and rules promulgated by the Idaho transportation department and the Idaho state police applicable to motor carriers.

(5) "Chains" means metal traction devices required pursuant to section 49-948, Idaho Code, which consist of two (2) circular metal loops, one (1) on each side of the tire, connected by not less than nine (9) evenly-spaced chains across the tire tread.

(6) "Coerce" means to compel or attempt to compel by threat or use of force.

(7) "Commercial coach." (See section 39-4301, Idaho Code)

(8) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(9) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(10) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(11) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(12) "Compliance review" means an on-site examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness.

(13) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act, 21 U.S.C. 802(6), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(14) "Conviction" means:

(a) The person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment. A conviction for purposes of this title shall also include an infraction judgment.

(b) For purposes of disqualification or withdrawal of commercial vehicle driving privileges only, "conviction" means an unvacated adjudication of guilt, or determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

(15) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

History.

I.C., § 49-104, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 2, p. 151; am. 1989, ch. 310, § 1, p. 769; am. 1990, ch. 45, § 2, p. 71; am. 1996, ch. 370, § 1, p. 1244; am. 1998, ch. 110, § 5, p. 375; am. 1999, ch. 81, § 2, p. 237; am. 1999, ch. 383, § 3, p. 1051; am. 2000, ch. 469, § 108, p. 1450; am. 2005, ch. 83, § 1, p. 296; am. 2007, ch. 252, § 6, p. 737; am. 2008, ch. 330, § 1, p. 902; am. 2010, ch. 49, § 1, p. 89; am. 2011, ch. 327, § 1, p. 952.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 49, in subsection (3), in the first sentence, substituted "section 49-117(18)" for "section 49-1212"; divided former subsection (13) into the present introductory paragraph in subsection (13) and

paragraph (13)(a); and added paragraph (13)(b).

The 2011 amendment, by ch. 327, added present subsection (6) and redesignated the subsequent subsections.

49-105. Definitions — D. — (1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, motor-driven cycles, snow machines or motorbikes, travel trailers, truck campers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease,

chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the

highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Downgrade" as it pertains to commercial drivers licensing shall mean either:

(a) The driver has changed his or her medical requirement self-certification to interstate but operates exclusively in transportation or operations excepted from part 391 of the federal motor carrier safety regulations; or

(b) The driver has changed his or her medical requirement self-certification to intrastate and operates exclusively in transportation or operations as listed in section 67-2901B(2), Idaho Code; or

(c) The driver no longer has commercial motor vehicle driving privileges, but has retained privileges to drive noncommercial motor vehicles.

(14) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(15) "Driver" means every person who drives or is in actual physical control of a vehicle.

(16) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(17) "Driver's license — Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(18) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(19) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T — Double/Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H — Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P — Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N — Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle.

Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M — Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle or motor-driven cycle.

(f) "Endorsement S — School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(20) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(21) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

History.

I.C., § 49-105, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 3, p. 151; am. 1989, ch. 285, § 1, p. 549; am. 1989, ch. 310, § 2, p. 769; am. 1990, ch. 45, § 3, p. 71; am. 1991, ch. 89, § 1, p. 196; am. 1991, ch. 272, § 2, p. 686; am. 1992, ch. 115, § 1, p. 345; am. 1993, ch. 300, § 1, p. 1105; am. 1994, ch. 234, § 1, p. 728; am. 1996, ch. 270, § 1, p. 872; am. 1996, ch. 371, § 1, p. 1246; am. 1997, ch. 80, § 3, p. 165; am. 1997, ch. 155, § 1, p. 438; am. 1998, ch. 110, § 6, p. 375; am. 2000, ch. 469, § 109, p. 1450; am. 2005, ch. 183, § 1, p. 558; am. 2005, ch. 352, § 4, p. 1085; am. 2006, ch. 42, § 4, p. 122; am. 2008, ch. 106, § 1, p. 294; am. 2008, ch. 198, § 1, p. 630; am. 2011, ch. 60, § 1, p. 124; am. 2012, ch. 325, § 1, p. 894.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 60, added present subsection (13) and renumbered the subsequent subsections accordingly.

The 2012 amendment, by ch. 325, deleted "Provided, this subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city" from the end of paragraph (11)(c).

referred to in subsections (17)(c) and (19)(b), was repealed in 1994. See now the hazardous materials transportation authorization act of 1994, 49 U.S.C.S. § 5101 et seq.

Effective Dates.

Section 8 of S.L. 2011, ch. 60 provided that the act should take effect on and after January 30, 2012. Chapter 60 became law without the signature of the governor.

Federal References.

The hazardous material transportation act,

49-106. Definitions — E. — (1) "Electric personal assistive mobility device" means a self-balancing two (2) nontandem wheeled device designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour or less.

(2) "Emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(3) "Encumbrance." (See "Lien," section 49-113, Idaho Code)

(4) "EPA" means the environmental protection agency of the United States.

(5) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

(6) "Established place of business" means a place occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

(7) "Excessive" or "unusual noise" means any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or any lower decibel level that is fixed by law or rules adopted by the board of health and welfare, on the "A" scale of a general radio company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a vehicle or motorcycle as the vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.

(8) "Excessive speed" means any speed of fifteen (15) miles per hour or more above the posted speed limit, and is only for purposes of determining disqualification of commercial driving privileges.

(9) "Executive head," as used in chapter 20, title 49, Idaho Code, means the governor of the state of Idaho.

(10) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases with which the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(11) "Extraordinary circumstances" means any situation where an emergency exists or public safety is endangered, or any situation in which a vehicle:

- (a) Is blocking or impeding traffic; or
- (b) Is causing a hazard; or
- (c) Has the potential of impeding any emergency vehicle; or
- (d) Is impeding any snow removal or other road maintenance operation; or
- (e) Has been stolen but not yet reported as recovered; or
- (f) Is not registered, or displays a license plate registration tag which has been expired; or
- (g) Has been involved in an accident and remains on the highway; or
- (h) The driver has been arrested.

History.

I.C. § 49-106, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 4, p. 151; am. 1989, ch. 113, § 1, p. 255; am. 1990, ch. 45, § 4, p. 71; am. 1998, ch. 392, § 1, p. 1197; am. 2002, ch. 160, § 1, p. 466; am. 2010, ch. 171, § 1, p. 348.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 171, added paragraphs (11)(g) and (11)(h).

49-107. Definitions — F. — (1) “Factory branch” means a branch office maintained by a person who manufactures or assembles vehicles for sale to distributors or to dealers, or for directing or supervising, in whole or in part, its representatives.

(2) “Factory representative” means any person and each officer and employee engaged as a representative of a manufacturer of vehicles or by a factory branch for the purpose of making or promoting a sale of their vehicles, or for supervising or contacting their dealers or prospective dealers.

(3) “Farm tractor” means every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of that power unit.

(4) “Farm vehicle.” (See “Vehicle,” section 49-123, Idaho Code)

(5) “Federal motor vehicle safety standards (FMVSS)” means those safety standards established by the national highway traffic safety administration, under title 49 CFR part 500-599, for the safe construction and manufacturing of self-propelled motorized vehicles for operation on public highways. Such vehicles as originally designed and manufactured shall be so certified by the manufacturer to meet the federal motor vehicle safety standards or the standards in force for a given model year or as certified by the national highway traffic safety administration.

(6) “Felony” means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.

(7) “Fifth wheel trailer.” (See “Trailer,” section 49-121, Idaho Code)

(8) “Financial institution” means any bank that is authorized to do business in the state of Idaho and any other financial institution that is registered with the department of finance.

(9) “Flammable liquid” means any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(10) “Fleet” means one (1) or more apportionable vehicles.

(11) “Fleet registration” means an optional form of registration through the department rather than a county assessor for registration of twenty-five (25) or more commercial or farm vehicles or any combination thereof. This registration is not an option for fleets of rental vehicles. Terms and conditions are further specified in section 49-434(5), Idaho Code.

(12) “Fold down camping trailer.” (See “Trailer,” section 49-121, Idaho Code)

(13) “Foreign vehicle.” (See “Vehicle,” section 49-123, Idaho Code)

(14) “Franchise” means a sales, service and parts agreement or any other contract or agreement between a dealer and a manufacturer of new vehicles or its distributor or factory branch by which the dealer is authorized to

engage in the business of selling any specified make or makes of new vehicles.

(15) "Full-time salesman" means any person employed as a vehicle salesman on behalf of a dealer for thirty (30) or more hours per week, and who sells, purchases, exchanges or negotiates for the sale, purchase or exchange of five (5) or more vehicles during each year in which his license is in effect.

History.

I.C., § 49-107, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 5, p. 151; am. 1991, ch. 272, § 3, p. 686; am. 1998, ch. 392, § 2, p. 1197; am. 2008, ch. 198, § 2, p. 633; am. 2011, ch. 327, § 2, p. 952.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 327, inserted

"sales, service and parts agreement or any other" near the beginning of subsection (14).

49-110. Definitions — I. — (1) "Identifying number" means:

(a) Motor number. That identifying number stamped on the engine of a vehicle.

(b) Vehicle identification number. The numbers and letters, if any, placed on a vehicle by the manufacturer for the purpose of identifying the vehicle.

(2) "Implements of husbandry" means every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implements of husbandry" do not include semitrailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations.

(3) "Incidentally operated" means the transport of the implement of husbandry from one (1) farm operation to another.

(4) "Individual record" means a record containing personal information about a designated person who is the subject of the record as identified in a request for information.

(5) "Infraction" means a civil public offense, not constituting a crime, which is not punishable by incarceration and for which there is no right to a trial by jury or right to court-appointed counsel, and which is punishable by only a penalty not exceeding one hundred dollars (\$100) and no imprisonment.

(6) "Instruction permits":

(a) "Class A, B or C instruction permit" means a temporary privilege to operate a motor vehicle for which a commercial driver's license is required; is available only to a person who is eighteen (18) years of age or

older; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified therein.

(b) "Class D driver's training instruction permit" means a temporary privilege to operate a class D motor vehicle while attending classes as an enrollee of a public or private driver's training course only; is available to a person aged fourteen and one-half (14 1/2) and older; is issued to the instructor of the driver's training course; is issued and expires pursuant to the provisions of section 49-307, Idaho Code; and the permittee is subject to the conditions specified in section 49-307, Idaho Code.

(c) "Class D instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements of a class D supervised instruction permit, or to any person seventeen (17) years of age or older; is valid for a period of one hundred eighty (180) days or as provided in section 49-305, Idaho Code, if applicable; privileges are limited to driving with a person who is at least eighteen (18) years of age who holds a valid class D driver's license and is actually occupying a seat beside the permittee; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified in section 49-305, Idaho Code.

(d) "Class D supervised instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person who is at least fourteen and one-half (14 1/2) years of age who has successfully completed an approved driver's training course. No person may apply for a class D driver's license until he has attained the age of at least fifteen (15) years and has successfully satisfied the requirements of this permit, as specified and issued pursuant to the provisions of section 49-307, Idaho Code.

(7) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(8) "Insurer" means any insurer, public or private, which shall include, but not be limited to, insurance companies domiciled in the state of Idaho, agents, adjuster or any other person acting on behalf of any insurance not domiciled in the state of Idaho and any self-insured entity operating under Idaho insurance laws or rules.

(9) "International registration plan" means a registration reciprocity agreement among the states of the United States and provinces of Canada providing for payment of registration and licensing fees on a proportional basis determined by the fleet miles operated in the various jurisdictions.

(10) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event an intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of the highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

History.

I.C., § 49-110, as added by 1988, ch. 265, § 2, p. 549; am. 1996, ch. 327, § 1, p. 1117; am. 1997, ch. 80, § 4, p. 165; am. 2000, ch. 214, § 3, p. 583; am. 2000, ch. 418, § 2, p. 1331; am. 2007, ch. 249, § 1, p. 730; am. 2008, ch. 194, § 1, p. 608; am. 2010, ch. 16, § 1, p. 21.

STATUTORY NOTES**Amendments.**

The 2010 amendment, by ch. 16, in paragraph (6)(b), substituted "and older" for "up to age seventeen (17) years"; and, at the end of

the first sentence of paragraph (6)(d), deleted "and is valid for a minimum of six (6) months".

49-114. Definitions — M. — (1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Mileage" means actual distance that a vehicle has traveled.

(9) "Moped" means a limited-speed motor-driven cycle having:

(a) Both motorized and pedal propulsion that is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displace-

ment shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged; or

(b) Two (2) wheels or three (3) wheels with no pedals, which is powered solely by electrical energy, has an automatic transmission, a motor which produces less than two (2) gross brake horsepower, is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground and as originally manufactured, meets federal motor vehicle safety standards for motor-driven cycles. A moped is not required to be titled and no motorcycle endorsement is required for its operator.

(10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho Code. Such vehicle shall be titled and may be approved for motorcycle registration pursuant to section 49-402, Idaho Code, upon certification by the owner of the installation and use of conversion components that make the motorbike compliant with federal motor vehicle safety standards.

(11) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike, but does not include a motor-driven cycle, a motorbike, a tractor or a moped.

(12) "Motor carrier" means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include mopeds. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

(14) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the National Fire Protection Association (NFPA) 1192 Standard on Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(15) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a person with a disability.

(16) "Motor number." (See "Identifying number," section 49-110, Idaho Code)

(17) "Motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(18) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(19) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

History.

I.C., § 49-114, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 285, § 2, p. 695; am. 1989, ch. 310, § 3, p. 769; am. 1994, ch. 234, § 2, p. 728; am. 1995, ch. 339, § 1, p. 1119; am. 1997, ch. 80, § 5, p. 165; am. 1998, ch. 392, § 3, p. 1197; am. 1999, ch. 81, § 3, p. 237;

am. 1999, ch. 383, § 4, p. 1051; am. 2000, ch. 418, § 3, p. 1331; am. 2001, ch. 73, § 1, p. 154; am. 2005, ch. 145, § 1, p. 456; am. 2006, ch. 360, § 1, p. 1097; am. 2008, ch. 198, § 3, p. 634; am. 2008, ch. 409, § 2, p. 1127; am. 2009, ch. 11, § 17, p. 14; am. 2010, ch. 235, § 35, p. 542.

STATUTORY NOTES**Amendments.**

The 2009 amendment, by ch. 11, substituted "National Fire Protection Association (NFPA) 1192 Standard on Recreational Vehicles" for "American National Standards Institute (ANSI) A119.7 Standard for Recreational

Vehicles" in subsection (14) and fixed the designations in subsections (14) to (19).

The 2010 amendment, by ch. 235, substituted "person with a disability" for "handicapped person" in subsection (15).

49-117. Definitions — P. — (1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

- (2) "Park trailer." (See "Trailer," section 49-121, Idaho Code)
- (3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.
- (4) "Peace officer." (See section 19-5101(d), Idaho Code)
- (5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair or an electric personal assistive mobility device.
- (6) "Pedestrian path" means any path, sidewalk or way set-aside and used exclusively by pedestrians.

(7)(a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

- (b) "Person with a disability" means:
 - (i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;
 - (ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or
 - (iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.
 - (iv) For the purposes of chapters 3 and 4 of this title, a person with a permanent disability is one whose physician certifies that the person

qualifies as a person with a disability pursuant to this subsection (7)(b), and further certifies that there is no expectation for a fundamental or marked change in the person's condition at any time in the future.

(8) "Personal information" means information that identifies an individual, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.

(9) "Pneumatic tire." (See "Tires," section 49-121, Idaho Code)

(10) "Pole trailer." (See "Trailer," section 49-121, Idaho Code)

(11) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(12) "Possessory lienholder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(13) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(14) "Pressure regulator valve" means a device or system which governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.

(15) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealership, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times. The books, records and files necessary to conduct the business of the dealership must be kept or reproduced electronically at the dealership's licensed location(s). A dealership keeping its physical books, records and files at an off-site location must notify the department in writing of such location at least thirty (30) days in advance of moving such books, records and files off-site. Physical books, records and files must be made available to the department upon request within three (3) business days of such request. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the

major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor.

(16) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(17) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(18) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars (\$15,000) because of injury to or destruction of property of others in any one (1) accident.

(19) "Proper authority" means a public highway agency.

(20) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency which has jurisdiction over public highway systems and public rights-of-way.

(21) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(22) "Public road jurisdiction" means a public highway agency.

(23) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

History.

I.C., § 49-117, as added by 1988, ch. 265, § 2, p. 549; am. 1991, ch. 272, § 4, p. 686; am. 1992, ch. 35, § 1, p. 99; am. 1994, ch. 264, § 2, p. 813; am. 1994, ch. 321, § 2, p. 1025; am.

1995, ch. 122, § 1, p. 526; am. 1997, ch. 80, § 6, p. 165; am. 1998, ch. 392, § 4, p. 1197; am. 2001, ch. 332, § 1, p. 1165; am. 2002, ch. 160, § 2, p. 466; am. 2011, ch. 71, § 1, p. 149.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 71, in subsection (15), substituted "business of a dealership" for "business of a dealer" near the middle and deleted "and at which place of business shall be kept and maintained" following "reasonable times" in the first sentence, added "of the dealership must be kept or reproduced electronically at the dealer-

ship's licensed location(s)" at the end of the second sentence, and added the third and fourth sentences.

Compiler's Notes.

The reference to section 49-435 in subsection (13) should be to section 49-434, following the amendment of both of those sections by S.L. 2000, chapter 418.

JUDICIAL DECISIONS

Cited in: Farm Bureau Mut. Ins. Co. v. Schrock, 150 Idaho 817, 252 P.3d 98 (2011).

49-120. Definitions — S. — (1) “Saddlemount combination” means a combination of vehicles in which a truck or truck tractor tows one (1), two (2) or three (3) trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. A smaller vehicle mounted completely on the frame of either the first or last vehicle may be used in a saddlemount combination.

(2) “Safety glazing materials” means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) “Safety zone” means the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(4) “Salvage pool” means a licensed vehicle dealer engaged primarily in the business of disposing of salvage vehicles, recovered stolen vehicles, or both.

(5) “School bus” means every motor vehicle that complies with the color and identification requirements set forth in the most recent edition of “Minimum Standards for School Buses” and is used to transport children to or from school or in connection with school approved activities and includes buses operated by contract carriers.

(6) “Secretary” means the secretary of transportation of the United States.

(7) “Security agreement.” (See section 28-9-102, Idaho Code)

(8) “Security interest.” (See section 28-1-201, Idaho Code)

(9) “Sell,” “sold,” “buy,” and “purchase,” mean and include, as used in sections 49-2401 through 49-2406, Idaho Code, exchange, barter, gift, and offer or contract to sell or buy.

(10) “Semitrailer.” (See “Trailer,” section 49-121, Idaho Code)

(11) “Serious traffic violation” means conviction of an offense specified in 49 CFR part 383 and including any subsequent amendments thereto, while operating a commercial motor vehicle, and shall include driving a commercial motor vehicle:

(a) Without obtaining a commercial driver’s license; or

(b) Without having a commercial driver’s license in the driver’s possession; or

(c) Without the proper license class of commercial driver’s license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

(12) “Sidewalk” means that portion of a street between the curb lines, or

the lateral lines of a roadway, and the adjacent property lines intended for use by pedestrians.

(13) "Signal." (See "Railroad sign," section 49-119, Idaho Code)

(14) "Skills test" means an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(15) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(16) "Snow tire." (See "Tires," section 49-121, Idaho Code)

(17) "Sold." (See "Sell," "buy," and "purchase," this section)

(18) "Solid rubber tire." (See "Tires," section 49-121, Idaho Code)

(19) "Special license plate" means a license plate that is made available to the public as a personal alternative to the standard issue license plate. No special program fee shall be charged for the registration or plates issued under sections 49-403, 49-403A, 49-404, 49-405, 49-410, 49-415, 49-415A and 49-415B, Idaho Code.

(20) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including: ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes, and earth moving equipment. The term does not include travel trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(21) "Specially constructed vehicle." (See "Vehicle," section 49-123, Idaho Code)

(22) "Specialty off-highway vehicle." (See "Vehicle," section 49-123, Idaho Code)

(23) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(24) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of Canada.

(25) "Stop" means the act of or complete cessation from movement.

(26) "Stopping" means the act of any halting even momentarily of a vehicle.

(27) "Street." (See "Highways," section 49-109, Idaho Code)

(28) "Street rod" means any pre-1949 vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle, and other suspension components. The body will be, or resemble the same as the manufacturer's original issue after its first sale after manufacture.

(29) "Studded tire." (See "Tires," section 49-121, Idaho Code)

(30) "Substandard width lane" means a lane that is too narrow for a bicycle and a motor vehicle to travel safely side by side within the lane.

(31) "Supplemental lot" means a physically separate location owned and maintained by a licensed dealer or manufacturer within the same or adjacent county as the principal place of business which meets all the requirements for a principal place of business.

(32) "Suspension of driver's license" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department.

(33) "Suspension of vehicle registration" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's vehicle registration or, in the case of fleets of vehicles, all vehicle registrations in each fleet operated by a company. Upon suspension, the privileges of operating the vehicle or vehicles on Idaho highways is terminated until the difficulty that caused the suspension is corrected and notification is provided that the suspension has been lifted.

History.

I.C. § 49-120, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 11, p. 151; am. 1989, ch. 285, § 3, p. 698; am. 1989, ch. 310, § 5, p. 769; am. 1990, ch. 45, § 9, p. 71; am. 1990, ch. 176, § 1, p. 373; am. 1992, ch. 35, § 3, p. 99; am. 1992, ch. 232, § 1, p. 691; am. 1992, ch. 261, § 1, p. 755; am. 1993, ch. 135, § 1, p. 330; am. 1996, ch. 371, § 3, p. 1246; am. 2000, ch. 87, § 1, p. 188; am. 2001, ch. 208, § 29, p. 35; am. 2006, ch. 164, § 2, p. 489; am. 2009, ch. 157, § 3, p. 458.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 157, added subsection (22) and redesignated the subsequent subsections accordingly.

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

49-122. Definitions — U. — (1) "Unauthorized vehicle" means any vehicle parked or otherwise left on private property without the consent of the person owning or controlling that property.

(2) "United States" means the fifty (50) states and the District of Columbia.

(3) "Unladen weight." (See "Light weight," section 49-113, Idaho Code)

(4) "Unregistered vehicle" means a vehicle without current registration on file with the department or with the appropriate agency of another state, unless exempt from registration.

(5) "Unusual noise." (See "Excessive," section 49-106, Idaho Code)

(6) "Urban district." (See "District," section 49-105, Idaho Code)

(7) "Utility trailer" means a trailer or semitrailer designed primarily to be drawn behind a passenger car or pickup truck for domestic and utility purposes. Utility or domestic use shall include a farm trailer while being used to haul agricultural products or livestock from farm to storage, market or processing plant, or returning therefrom.

(8) "Utility type vehicle" or "UTV" means a utility type vehicle or UTV as defined in section 67-7101, Idaho Code.

History.

I.C., § 49-122, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 12, p. 151; am. 1989, ch. 318, § 1, p. 151; am. 2000, ch. 418,

§ 4, p. 1331; am. 2006, ch. 42, § 5, p. 122; am. 2009, ch. 157, § 4, p. 458; am. 2011, ch. 158, § 2, p. 443.

STATUTORY NOTES**Amendments.**

The 2009 amendment, by ch. 157, in subsection (8), in the first sentence, deleted “unpaved” preceding “roads,” “low pressure” preceding “tires,” and “of twenty (20) psi or less” following “tires,” and substituted “and having a wheelbase of one hundred ten (110) inches or less” for “or having a wheelbase of ninety four (94) inches” and added the second sentence.

The 2011 amendment, by ch. 158, rewrote subsection (8), which formerly read: “Utility type vehicle (UTV) means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in section 67-7101, Idaho Code, designed for and capable of travel over designated roads, traveling on four (4) or more tires, maximum width less than seven-

ty-four (74) inches, maximum weight less than two thousand (2,000) pounds, and having a wheelbase of one hundred ten (110) inches or less. A utility type vehicle must have a minimum width of fifty (50) inches, a minimum weight of at least nine hundred (900) pounds or a wheelbase of over sixty-one (61) inches. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code.”

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

49-123. Definitions — V. — (1) “Variable load suspension axle” means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) “Fully raised” means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) “Fully deployed” means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) “Vehicle” means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff’s search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapters 3 and 9 of this title, driver's licenses and vehicle equipment, a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

- (i) Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
- (ii) Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
- (iii) Is designed to transport sixteen (16) or more people, including the driver; or
- (iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled, and for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section 49-107, Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under title 49, Idaho Code.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Neighborhood electric vehicle (NEV). A self-propelled, electrically-powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(j) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(k) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(l) Rebuilt salvage vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "rebuilt salvage" brand is required to be added to the title.

(m) Reconstructed vehicles. Vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(n) Replica vehicle. A vehicle made to replicate any passenger car or truck previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

(o) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle, such vehicle shall be considered to be a salvage vehicle.

(p) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

- (i) A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or
- (ii) A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or
- (iii) A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or
- (iv) A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model. All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

(q) Specialty off-highway vehicle. A specialty off-highway vehicle as defined in section 67-7101, Idaho Code.

[(r)](q) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or

regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-502, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

History.

I.C., § 49-123, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 285, § 4, p. 698; am. 1989, ch. 310, § 6, p. 769; am. 1989, ch. 318, § 2, p. 817; am. 1990, ch. 45, § 10, p. 71; am. 1990, ch. 295, § 1, p. 815; am. 1991, ch. 272, § 5, p. 686; am. 1991, ch. 288, § 2, p. 739; am. 1992, ch. 115, § 4, p. 345; am. 1993, ch. 376, § 1, p. 1377; am. 1994, ch. 296, § 1, p. 933; am. 1995, ch. 122, § 2, p. 526; am. 1996, ch. 308, § 1, p. 1009; am. 1997, ch. 355, § 1, p. 1047; am. 1999, ch. 298, § 1, p. 746; am. 2000, ch. 469, § 110, p. 1450; am. 2002, ch. 160, § 3, p. 466; am. 2005, ch. 183, § 3, p. 558; am. 2006, ch. 51, § 18, p. 145; am. 2008, ch. 84, § 1, p. 215; am. 2008, ch. 198, § 4, p. 636; am. 2008, ch. 330, § 2, p. 904; am. 2009, ch. 11, § 18, p. 14; am. 2009, ch. 157, § 5, p. 458.

STATUTORY NOTES

Amendments.

This section was amended by two 2009 acts which appear to be compatible and have been compiled together.

The 2009 amendment, by ch. 11, made designation updates in subsections (2)(n) through (2)(q).

The 2009 amendment, by ch. 157, added present subsection (2)(q) and redesignated former subsection (2)(q) as subsection (2)(r).

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

CHAPTER 2

GENERAL

SECTION.

49-201. Duties of board.

49-202. Duties of department.

49-207. Municipal registration prohibited —

Power to enact regulatory ordinances not abolished.

SECTION.

49-208. Powers of local authorities.

49-240. Certain circumstances for forfeiture of bond for traffic offenses.

49-201. Duties of board. — (1) With the exception of requirements for sections 49-217 and 49-218 and chapters 6 and 9, title 49, Idaho Code, which shall be the responsibility of the director of the Idaho state police, and section 49-447, Idaho Code, which shall be the responsibility of the director of the department of parks and recreation, the board shall adopt and enforce administrative rules and may designate agencies or enter into agreements with private companies or public entities as may be necessary to carry out the provisions of this title. It shall also provide suitable forms for applications, registration cards, vehicle licenses, and all other forms requisite for the purpose of the provisions of this title, and shall prepay all transportation charges.

(2) The board may enter into agreements, compacts or arrangements

with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements. Copies of agreements, compacts or arrangements shall be placed on file in the department and the board shall, as to all filings and adoption, conform with the provisions of chapter 52, title 67, Idaho Code. The board may approve, on a case-by-case basis, exemption from operating fees for private nonprofit entities who are bringing public interest programs into the state. These entities may not be in competition with companies who transport goods and services for hire.

(3) The board shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within the state. The uniform system shall correlate with and, so far as possible, conform to the system set forth in the most recent edition of the manual on uniform traffic-control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

(4) Whenever the board shall determine upon the basis of an engineering and traffic investigation that any maximum speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a reasonable and safe maximum limit, thereat, not exceeding a maximum limit of seventy-five (75) miles per hour on interstate highways and sixty-five (65) miles per hour on state highways, which shall be effective when appropriate signs giving notice are erected. The speed limit may be declared to be effective at all times or at the times as indicated upon the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(5) The board shall adopt and enforce rules as may be consistent with and necessary to determine the classification of and the basis on which fees shall be computed.

History.

1927, ch. 244, § 2, p. 374; I.C.A., § 48-102; am. 1951, ch. 119, § 2, p. 374; am. 1953, ch. 261, § 2, p. 425; I.C., § 49-127c, as added by 1953, ch. 261, § 14, p. 425; am. 1967, ch. 175, § 1, p. 583; am. 1974, ch. 27, §§ 85, 97, p. 811; I.C., § 49-584, as added by 1977, ch. 152, § 2, p. 337; I.C., § 49-682, as added by 1977, ch.

152, § 3, p. 337; am. 1982, ch. 95, §§ 2, 13, p. 185; am. 1987, ch. 280, § 2, p. 590; am. and redesign. 1988, ch. 265, § 4, p. 549; am. 1990, ch. 45, § 11, p. 71; am. 1992, ch. 35, § 5, p. 99; am. 1993, ch. 299, § 1, p. 1100; am. 1996, ch. 270, § 2, p. 872; am. 1997, ch. 155, § 2, p. 438; am. 2000, ch. 469, § 111, p. 1450; am. 2012, ch. 325, § 2, p. 894.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 325, deleted the last sentence in subsection (4), which read "The authority of the board to establish speed limits on state highways pursuant to this section does not restrict the authority of the duly elected officials of an incorporated city acting in the capacity of a local authority to

establish lower speed limits for portions of state highways, excluding controlled access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city, for the purpose of enhancing motorist and pedestrian safety."

JUDICIAL DECISIONS

Cited in: Archer v. Dep't of Transp. (In re Archer), 145 Idaho 617, 181 P.3d 543 (Ct. App. 2008); Wheeler v. Idaho Transp. Dep't, 148 Idaho 378, 223 P.3d 761 (Ct. App. 2009);

McDaniel v. State (In re Driver's License Suspension of McDaniel), 149 Idaho 643, 239 P.3d 36 (Ct. App. 2010); Wilkinson v. State, 151 Idaho 784, 264 P.3d 680 (Ct. App. 2011).

49-202. Duties of department. — (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours, except for those records declared by law to be for the confidential use of the department, or those records containing personal information subject to restrictions or conditions regarding disclosure. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license	\$14.00
(b) For issuing every Idaho certificate of title	\$14.00
(c) For furnishing a duplicate copy of any Idaho certificate of title ..	\$14.00
(d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section	\$26.00
(e) For recording a transitional ownership document, in addition to any other fee required by this section	\$26.00
(f) For furnishing a replacement of any receipt of registration	\$5.00
(g) For furnishing copies of registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record	\$7.00
Additional contractor fee, not to exceed	\$4.00
(h) For services in searching files of vehicle or other registrations, vehicle titles, or driver's licenses per hour	\$18.00
(i) Placing "stop" cards in vehicle registration or title files, each ..	\$21.00
(j) For issuance of an assigned or replacement vehicle identification number (VIN)	\$18.00
(k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection	\$5.00
(l) For all replacement registration stickers, each	\$2.00
(m) For issuing letters of temporary vehicle clearance to Idaho-based motor carriers	\$18.00
(n) For all sample license plates, each	\$21.00
(o) For filing release of liability statements	\$3.50
(p) For safety and insurance programs for each vehicle operated by a motor carrier	\$3.00

A lesser amount may be set by rule of the board.

(3) The fees required in this section shall not apply when the service is

furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(g) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5)(a) The department shall pay three dollars (\$3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, and four dollars (\$4.00) as provided in subsection (2)(g) of this section, to the county assessor or sheriff of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account.

(b) The fee collected under subsection (2)(k) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the Idaho state police if conducted by the Idaho state police or in the state highway account if conducted by the department.

(c) The fee collected under subsection (2)(o) of this section for filing release of liability statements shall be retained by the county assessor of the county collecting such fee, and shall be deposited with the county treasurer and credited to the county current expense fund.

(d) The fee in subsection (2)(m) of this section shall not apply when the Idaho-based motor carrier or its representative obtains and prints the document using internet access.

(e) The fee collected under subsection (2)(p) of this section for motor carriers shall be paid by the department to the state treasurer and placed in the state highway account. The director and the director of the Idaho state police shall jointly determine the amount to be transferred from the state highway account to the law enforcement fund for motor carrier safety programs conducted by the Idaho state police pursuant to the provisions of section 67-2901A, Idaho Code.

(6) The department as often as practicable may provide to law enforcement agencies the record of suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Ada county all instruments required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and shall maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof.

(9) The department shall not renew a driver's license or identification card when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(10) The department shall not grant the registration of a vehicle when:

- (a) The applicant is not entitled to registration under the provisions of this title; or
- (b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department; or
- (c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including insufficient fund checks.

(11) The department or its authorized agents have the authority to request any person to submit to medical, vision, highway, or written examinations, to protect the safety of the public upon the highways. The department or its authorized agents may exercise such authority based upon evidence which may include, but is not limited to, observations made.

(12) The department shall revoke the registration of any vehicle:

- (a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;
- (b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;
- (c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;
- (d) Whenever a motor carrier requests revocation, or whenever an interstate carrier's federal operating authority has been revoked;
- (e) For failure of the owner or operator to file the reports required or nonpayment of audit assessments or fees assessed against the owner by the department or the state tax commission pursuant to audit under the provisions of section 49-439, Idaho Code;
- (f) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 U.S.C. section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (f) unless:

(i) The city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and

(ii) The city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

(14) The department shall institute educational programs, demonstrations, exhibits and displays.

(15) The department shall cancel a driver's license or identification card when fees required by law have not been paid or where fees are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(16) The department shall examine persons and vehicles by written, oral, vision and skills tests without compulsion except as provided by law.

(17) The department shall employ expert and special help as needed in the department.

(18) The department shall compile accident statistics and disseminate information relating to those statistics.

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission. The placement and maintenance of such a traffic-control device by a local authority shall be made according to the board's manual and specifications for a uniform system of traffic-control devices.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and, if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(24) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(25) Wherever a highway crosses one (1) or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Place-

ment of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

(28) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly interferes with the free movement of traffic thereon.

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to successfully pass a driver's license test, the department shall include material about the state's open range law and responsibilities, liabilities and obligations of drivers driving in the open range.

History.

1927, ch. 244, §§ 4, 5, 10, 22, 23, p. 374; am. 1929, ch. 195, § 2, p. 366; I.C.A., §§ 48-104, 48-105, 48-110, 48-123, 48-124, 48-402e; am. 1939, ch. 195, § 1, p. 372; am. 1941, ch. 101, § 1, p. 181; added 1941, ch. 144, § 3, p. 282; am. 1943, ch. 43, § 2, p. 86; am. 1951, ch. 119, § 8, p. 273; am. 1953, ch. 156, § 1, p. 251; am. 1955, ch. 58, §§ 2, 3, p. 108; am. 1955, ch. 71, §§ 2, 5, p. 138; am. 1961, ch. 263, § 1, p. 463; am. 1963, ch. 160, § 13, p. 463; am. 1965, ch. 49, § 1, p. 79; am. 1974, ch. 27, §§ 86, 94, p. 811; am. 1976, ch. 101, § 1, p. 423; added 1977, ch. 152, §§ 2, 3, p. 337; am. 1978, ch. 122, § 1, p. 277; am. 1981, ch. 204, § 1, p. 367; am. 1982, ch. 95, §§ 3, 9, 62, p. 185; am. 1982, ch. 353, § 23, p. 874; am. 1984, ch. 149, § 1, p. 351; am. 1984, ch. 195, § 7, p. 445; am. and redesig. 1988, ch. 265, § 5, p. 549; am. 1989, ch. 88, § 13, p. 151; am. 1989, ch. 310, § 8, p. 769; am. 1990, ch. 45, § 12, p. 71; am. 1991, ch. 143, § 1, p. 336; am. 1991, ch. 214, § 1, p. 511; am. 1992, ch. 35, § 6, p. 99; am. 1992, ch. 115, § 5, p. 345; am. 1992, ch. 173, § 1, p. 542; am. 1993, ch. 299, § 2, p. 1100; am. 1994, ch. 315, § 1, p. 1001; am. 1995, ch. 116, § 26, p. 386; am. 1995, ch. 209, § 1, p. 710; am. 1996, ch. 271, § 1, p. 879; am. 1997, ch. 80, § 7, p. 165; am. 1997, ch. 155, § 3, p. 438; am. 1998, ch. 110, § 9, p. 375; am. 1999, ch. 81, § 4, p. 237; am. 1999, ch. 383, § 6, p. 1051; am. 2000, ch. 320, § 3, p. 1078; am. 2000, ch. 418, § 6, p. 1331; am. 2000, ch. 469, § 112, p. 1450; am. 2001, ch. 183, § 20, p. 99.

613; am. 2004, ch. 234, § 1, p. 686; am. 2007, ch. 21, § 1, p. 34; am. 2008, ch. 55, § 1, p. 138;

am. 2009, ch. 331, § 2, p. 947; am. 2012, ch. 325, § 3, p. 894.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 331, increased the fees throughout subsection (2); and substituted “state highway account” for “state highway fund” four times in subsection (5).

The 2012 amendment, by ch. 325, deleted “except where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on the portion of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city” from the end of the second sentence in subsection (20) and similar language from the end of subsection (22).

Legislative Intent.

Section 1 of S.L. 2009, ch. 331 provided: “Legislative Intent. It is the intent of the Legislature that the moneys raised through the increase in fees authorized by the provisions of this act be expended in the following order on and for the following:

“(a) First, moneys raised from the increase

in fees should be expended to address any revenue deficit or shortfall that the Division of Motor Vehicles is operating under as of June 30, 2009.

“(b) Second, any moneys remaining after the expenditures relating to subsection (a) of this section, should be expended on improvements to the Division of Motor Vehicle’s technology operations and improvements.

“(c) Third, any moneys remaining after the expenditures relating to subsections (a) and (b) of this section, should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems.

“(d) The department should review approximately every five (5) years the fees provided for in this act and recommend appropriate changes to such fees in the Legislature.”

Effective Dates.

Section 9 of S.L. 2009, ch. 331 provided that the act should take effect on and after January 1, 2010.

JUDICIAL DECISIONS

Conditional Permit.

Where a developer’s proposed plat called for an internal street to intersect with a controlled-access highway, it was permissible under §§ 40-310(5), 40-310(9), and 40-312(1) and subsection (23) of this section for the

Idaho transportation department to approve the encroachment permit with the condition that the developer design and construct a traffic signal that would cost about \$180,000. *Lochsa Falls, L.L.C. v. State*, 147 Idaho 232, 207 P.3d 963 (2009).

49-207. Municipal registration prohibited — Power to enact regulatory ordinances not abolished. — (1) Authorities of counties and cities shall have no power to pass, enforce or maintain any ordinance requiring, from any owner of a vehicle or any dealer to which this title shall be applicable, any tax, license or permit for the free use of the public highways of a county or city, or prohibiting or excluding any owner or dealer from the free use of such highways or excluding or prohibiting any vehicle registered in compliance with the provisions of this title from the free use of the highways. Powers given by general statutes to local authorities in cities to enact general ordinances applicable equally and generally to all vehicles and the use of highways to bring about the orderly passage of vehicles upon certain highways in such cities where the traffic is heavy and continuous, and powers given to cities to regulate vehicles offered to the public for hire, or processions, assemblages or parades on the highways or in public places shall remain in full force and effect, and all ordinances which may have been or which may be enacted in pursuance of those powers shall remain in full force and effect. These provisions of law shall not be construed to prevent

cities from enacting and enforcing general ordinances prescribing additional requirements as to speed, manner of driving or operating vehicles on any of the highways of such cities, and prescribing other requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on motor vehicles, the turning of motor vehicles on highways, and requirements for motor vehicles in passing other vehicles and pedestrians.

(2) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering or traffic investigation, and the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district that the speed limit permitted under this title is greater than is reasonable and safe under the conditions found to exist upon a highway or part of a highway or because of the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district, the local authority may determine and declare a reasonable and safe maximum limit which:

- (a) Decreases the limit within a residential, business or urban district;
- (b) Increases the limit within a nonresidential area of an urban district but not to more than sixty-five (65) miles per hour; or
- (c) Decreases the limit outside an urban district.

(3) Local authorities in their respective jurisdictions shall determine by an engineering or traffic investigation the proper maximum speed not exceeding a maximum limit of sixty-five (65) miles per hour for all arterial highways and shall declare a reasonable and safe maximum limit which may be greater or less than the limit permitted under this title for an urban district.

(4) Any altered speed limit established shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice are erected upon the highway. Any alteration of maximum limits on state highways or extensions in a municipality by local authorities shall not be effective until the alteration has been approved by the department. Provided however, that any alteration of speed limits must be based upon a traffic engineering study approved by the department and completed according to department standards. The alteration of speed limits by local authorities shall be done in consultation with the department. In the event of disagreement between the department and local authorities, the department traffic study shall be adopted, unless the local government traffic study is submitted to the Idaho transportation department board and the board adopts the local study in whole or in part.

History.

1913, ch. 179, § 29, p. 558; reen. C.L. 63:29; C.S., § 1617; I.C.A., § 48-202; I.C., § 49-683, as added by 1977, ch. 152, § 3, p. 337; am. 1982, ch. 353, § 24, p. 874; am. 1988, ch. 81, § 2, p. 140; am. and redesig. 1988, ch. 265, § 8, p. 549; am. 1989, ch. 310, § 9, p. 769; am. 1991, ch. 100, § 2, p. 221; am. 1996, ch. 270, § 3, p. 872; am. 1997, ch. 155, § 4, p. 438; am. 2012, ch. 325, § 4, p. 894.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 325, deleted "including the duly elected officials of an in-

corporated city acting in the capacity of a local authority" following "respective jurisdictions" near the beginning of the introductory para-

graph in subsection (2), inserted paragraph (2)(b) and redesignated former paragraph (2)(b) as (2)(c); in subsection (4), substituted "altered speed" for "decreased speed" near the beginning and substituted the current second

through fourth sentences for "according to requirements of the department"; and deleted former subsection (5), relating to regulation of speed by local authorities.

49-208. Powers of local authorities. — (1) The provisions of this title shall not be deemed to prevent local authorities with respect to highways under their jurisdiction and within the reasonable exercise of the police power from:

- (a) Regulating or prohibiting stopping, standing or parking;
- (b) Regulating traffic by means of peace officers or traffic-control devices;
- (c) Regulating or prohibiting processions or assemblages on the highways;
- (d) Designating particular highways for use by traffic moving in one (1) direction;
- (e) Establishing speed limits for vehicles in public parks;
- (f) Designating any highway as a through highway or designating any intersection or junction of highways as a stop or yield intersection or junction;
- (g) Restricting the use of highways as authorized in chapter 10, title 49, Idaho Code;
- (h) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (i) Altering or establishing speed limits;
- (j) Designating no-passing zones;
- (k) Prohibiting or regulating the use of controlled-access highways by any class or kind of traffic;
- (l) Prohibiting or regulating the use of heavily traveled highways by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (m) Establishing minimum speed limits;
- (n) Prohibiting pedestrians from crossing a highway in a business district or any designated highway except in a crosswalk;
- (o) Restricting pedestrian crossings at unmarked crosswalks;
- (p) Establishing the maximum speed of vehicles on a bridge or other elevated structure;
- (q) Requiring written accident reports;
- (r) Regulating persons propelling pushcarts;
- (s) Regulating persons upon skates, coasters, sleds and other toy vehicles;
- (t) Adopting and enforcing temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
- (u) Prohibiting drivers of ambulances from exceeding maximum speed limits;
- (v) Adopting such other traffic regulations as are specifically authorized by this title.

(2) No ordinance or regulation enacted under paragraphs (d) through (p) of subsection (1) of this section shall be effective until traffic-control devices giving notice of local traffic regulations are erected upon or at the entrances to the highway or part affected as may be most appropriate.

(3) No local authority shall erect or maintain any traffic-control device at any location so as to require traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the department.

(4) Local authorities by ordinance may adopt by reference all or any part of title 49, Idaho Code, without publishing or posting in full the provisions thereof, provided that not less than one (1) copy is available for public use and examination in the office of the clerk.

(5) Local authorities may adopt an ordinance establishing procedures for the abatement and removal of abandoned, junk, dismantled or inoperative vehicles or their parts from private or public property, including highways, provided the ordinance is not in conflict with the provisions of this title.

History.

I.C., §§ 49-582 and 49-583, as added by 1977, ch. 152, § 2, p. 337; am. 1982, ch. 353, § 16, p. 874; am. 1983, ch. 25, § 6, p. 66; am.

and redesig. 1988, ch. 265, § 9, p. 549; am. 1990, ch. 45, § 13, p. 71; am. 1997, ch. 155, § 5, p. 438; am. 2012, ch. 325, § 5, p. 894.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 325, deleted

former paragraph (1)(w), relating to regulation of speed by local authorities.

49-240. Certain circumstances for forfeiture of bond for traffic offenses. — (1) Whenever a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, and if the attorney prosecuting the case and the defendant concur that it is in the best interest of justice that the defendant may post and forfeit an amount of the bond agreed upon by the parties, the court shall dismiss the charge. When bond is forfeited under the provisions of this subsection, no violation points, as prescribed in section 49-326, Idaho Code, shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction, but the proceeds of the bond shall be distributed as court costs and fines as though there were a conviction.

(2) The provisions of subsection (1) of this section shall not be available when citations, summons or complaints are written for a violation of the provisions of section 18-8001, 18-8004, 18-8006 or 49-1401, Idaho Code.

(3) Whenever a person who, while operating a commercial motor vehicle or whenever a holder of a class A, B or C license, has received a written uniform traffic citation, summons or complaint containing a notice to appear before a magistrate for an offense arising out of the operation of a motor vehicle, any bond forfeiture shall be treated as though it were a conviction.

History.

I.C., § 49-1121, as added by 1983 (Ex. Sess.), ch. 3, § 16, p. 8; am. 1984, ch. 22, § 7, p. 25; am. and redesig. 1988, ch. 265, § 32, p.

549; am. 1992, ch. 161, § 1, p. 517; am. 1996, ch. 371, § 4, p. 1246; am. 2006, ch. 164, § 3, p. 489; am. 2010, ch. 49, § 2, p. 89.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 49, substituted "while operating a commercial motor

vehicle or whenever a holder of a class A" for "holds a class A" in subsection (3).

CHAPTER 3**MOTOR VEHICLE DRIVER'S LICENSES****SECTION.**

49-301. Drivers to be licensed.
 49-302. What persons are exempt from license.
 49-304. Motorcycle endorsement.
 49-305. Instruction permits — Temporary licenses — Motorcycle endorsement instruction permit.
 49-306. Application for driver's license, instruction permit, or restricted school attendance driving permit.
 49-307. Class D driver's training instruction permit and temporary permits — Class D supervised instruction permit — Application for a class D driver's license — Restrictions on class D driver's license.
 49-313. Examination of applicants.
 49-314. Local examiners appointed by department.

SECTION.

49-315. Licenses issued to drivers.
 49-317. Restricted driver's licenses.
 49-319. Expiration and renewal of driver's license.
 49-321. Records to be kept by the department.
 49-322. Authority of department to cancel driver's license or instruction permit.
 49-326. Authority of department to suspend, disqualify or revoke driver's license and privileges.
 49-328. Reinstatement of revoked, disqualified or suspended driver's license — Fee — When reinstatement prohibited.
 49-335. Disqualifications and penalties — Commercial driver's license.
 49-337. Employee and employer responsibilities.

49-301. Drivers to be licensed. — (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a current and valid Idaho driver's license. Provided however, that those persons holding a restricted school attendance driving permit may drive upon a highway pursuant to the restrictions set forth in section 49-307A, Idaho Code.

(2) No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license.

(3) No person shall operate a motor vehicle in violation of any valid restriction identified on, or attached to, his valid driver's license.

(4) No person shall receive a class D driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction for use within the United States, or any identification cards issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess a driver's license or any identification cards.

(5) No person shall be permitted to have more than one (1) driver's license issued for use within the United States at any time.

(6) No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway:

(a) Without obtaining a commercial driver's license.

- (b) Without having the appropriate class A, B or C commercial driver's license in the operator's possession.
- (c) Without the proper license class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.
- (d) Unless the operator has a seasonal or class A, B or C driver's license with required endorsements in his possession.
- (e) Without having a current and valid medical examiner's certificate on file with the department while operating in a "non-exception" status as required by the federal motor carrier safety administration. Medical examiner's certificates submitted for filing must be legible and shall be submitted in a manner acceptable to the department. If the federal motor carrier safety administration has issued a medical exemption letter or skill performance evaluation certificate, the driver must have the current and valid documentation in physical possession and available upon request to a duly authorized federal, state or local enforcement official.

(7) Any holder of a class A, B or C commercial driver's license issued by a jurisdiction other than Idaho shall apply for an Idaho-issued commercial driver's license within thirty (30) days of establishing a domicile in Idaho. In accordance with the federal motor carrier safety regulations, no person shall receive a class A, B or C driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction.

(8) Except as provided in section 49-304, Idaho Code, a violation of this section is a misdemeanor.

History.

1935, ch. 88, § 7, p. 154; am. 1951, ch. 183, § 3, p. 383; am. 1955, ch. 39, § 1, p. 56; am. 1981, ch. 312, § 1, p. 656; am. and redesig. 1988, ch. 265, § 35, p. 549; am. 1989, ch. 88, § 14, p. 151; am. 1990, ch. 45, § 14, p. 71; am. 1993, ch. 300, § 2, p. 1105; am. 1994, ch. 234,

§ 3, p. 728; am. 1996, ch. 371, § 5, p. 1246; am. 1998, ch. 100, § 1, p. 349; am. 1999, ch. 81, § 7, p. 237; am. 2000, ch. 327, § 2, p. 1101; am. 2002, ch. 235, § 1, p. 696; am. 2002, ch. 355, § 1, p. 1011; am. 2004, ch. 126, § 3, p. 422; am. 2006, ch. 164, § 4, p. 489; am. 2011, ch. 60, § 2, p. 124.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 60, added paragraph (6)(e).

Federal References.

Federal regulations concerning commercial drivers can be found at 49 C.F.R. § 383.1 et seq.

Effective Dates.

Section 8 of S.L. 2011, ch. 60 provided that the act should take effect on and after January 30, 2012. Chapter 60 became law without the signature of the governor.

49-302. What persons are exempt from license. — The following persons are exempt from licensing if driving privileges are not suspended, canceled, revoked, disqualified, denied or refused:

- (1) Any person while driving or operating any farm tractor or implement of husbandry when incidentally operated on a highway.
- (2) Farmers are exempt from obtaining a class A, B or C driver's license to operate a commercial motor vehicle which is:

- (a) Controlled and operated by a farmer, including operation by employees or family members; and
- (b) Used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm; and
- (c) Not used in the operations of a common or contract motor carrier; and
- (d) Used within one hundred fifty (150) miles of the person's farm.

(3) Any person is exempt from obtaining a class A, B or C driver's license for the operation of commercial motor vehicles which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals, and are not subject to normal traffic regulations.

(4) Any person is exempt from obtaining a class A, B or C license to operate a commercial vehicle which is exclusively used to transport personal possessions or family members for nonbusiness or recreational purposes.

(5) A nonresident who is at least fifteen (15) years of age and who has in his immediate possession a valid driver's license issued to him in his home state or country may operate a motor vehicle in Idaho only as a class D operator with driving privileges restricted to daylight hours only except as provided in section 49-307(9), Idaho Code, and with full privileges at sixteen (16) years of age, and only if Idaho residency is not established.

(6) A nonresident who is at least fifteen (15) years of age and who has in his possession a valid driver's license with a motorcycle endorsement or who has a valid motorcycle driver's license issued to him in his home state or country may operate a motorcycle in Idaho with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age.

(7) A nonresident who has in his immediate possession a valid commercial driver's license issued to him in his home state or country may operate a motor vehicle in Idaho.

(8) A nonresident on active duty in the armed forces of the United States who has a valid driver's license issued by his home jurisdiction, and such nonresident's spouse or dependent son or daughter who has a valid driver's license issued by such person's home jurisdiction.

(9) Any active duty military personnel, active duty U.S. coast guard personnel, and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians who as civilians are required to wear military uniforms and are subject to the code of military justice, are exempt from obtaining a commercial driver's license to operate military vehicles. This exemption does not apply to U.S. reserve technicians.

(10) Any person with a valid driver's license issued in their name is exempt from the requirement to obtain a motorcycle endorsement on the license when operating a motorcycle on highways or sections of highways designated for unregistered motorcycle use under section 49-426(3), Idaho Code.

(11) Any person under the age of sixteen (16) years when operating an ATV, UTV, specialty off-highway vehicle or motorbike on roads on federal or state land where the road is not part of the highway system of the state of Idaho or local road management authority and is supervised by a licensed

adult operator eighteen (18) years of age or older, and the road is open for such use, subject to the following:

(a) Any unlicensed operators under the age of sixteen (16) years, on national forest roads must have completed a motorbike or ATV safety course approved by the Idaho department of parks and recreation, and a certificate or other proof of completion of such safety course shall be in the possession of the unlicensed operator of any ATV, UTV, specialty off-highway vehicle or motorbike, or shall be present in the vehicle at all times when the vehicle is operated on national forest roads. The certificate or proof of completion shall be provided for inspection to any peace officer upon request. No person shall be convicted of violating the provisions of this subsection if that person produces, at any time prior to conviction, the certificate or proof of completion of the approved safety course where the certificate shows completion of the course prior to the violation. In the event of a violation of the provisions of this subsection, the supervising adult may be charged with an infraction.

(b) For purposes of this subsection, "supervised" means that the supervising adult must be in a position, on another ATV, UTV, specialty off-highway vehicle or motorbike, or if on the ground, within three hundred (300) feet of the unlicensed operator, to provide close support, assistance or direction to the unlicensed operator.

History.

1935, ch. 88, § 8, p. 154; am. 1955, ch. 67, § 1, p. 133; am. and redesig. 1988, ch. 265, § 36, p. 549; am. 1989, ch. 88, § 15, p. 151; am. 1990, ch. 45, § 15, p. 71; am. 1991, ch. 89, § 2, p. 196; am. 1992, ch. 115, § 7, p. 345; am.

1994, ch. 234, § 4, p. 728; am. 1998, ch. 110, § 12, p. 375; am. 2000, ch. 315, § 1, p. 1059; am. 2003, ch. 47, § 1, p. 176; am. 2008, ch. 194, § 2, p. 610; am. 2009, ch. 157, § 6, p. 458; am. 2011, ch. 330, § 1, p. 966.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 157, added subsection (11).

The 2011 amendment, by ch. 330, in subsection (11), substituted "local road management authority and" for "any political subdivision thereof when the person", inserted

"eighteen (18) years of age or older" and added "subject to the following" in the introductory paragraph and added paragraphs (a) and (b).

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

49-304. Motorcycle endorsement. — The department shall issue a motorcycle "M" endorsement on a driver's license to applicants who complete the requirements to operate a motorcycle.

(1) No person may operate a motorcycle upon a highway without a motorcycle "M" endorsement on a valid driver's license.

(2) Any person who applies for a driver's license or renewal of a license may also apply for a motorcycle "M" endorsement. The requirements for obtaining a motorcycle "M" endorsement are:

(a) The applicant shall be tested by written examination for his knowledge of safe motorcycle operating practices and traffic laws specific to the operation of motorcycles upon payment of the fee specified in section 49-306, Idaho Code.

(b) Upon successful completion of the knowledge test and upon payment

of the fee required for an "M" endorsement, the applicant shall obtain a motorcycle "M" endorsement on his driver's license.

(3) No person under the age of twenty-one (21) years may apply for or obtain a motorcycle "M" endorsement on his driver's license unless he has successfully completed a motorcycle rider training course approved under the provisions of chapter 49, title 33, Idaho Code, in addition to satisfying the requirements specified in subsection (2) of this section. The provisions of this subsection shall not be effective unless and until the motorcycle rider training course is fully implemented by the division of professional-technical education.

(4) Any person who applies for a motorcycle endorsement on a driver's license, in addition to the requirements specified in subsection (2) of this section, may also be required to pass the motorcycle "M" skills test before he can obtain the motorcycle "M" endorsement.

(5) The operation of a motorcycle upon a highway by any person who has failed to obtain a motorcycle "M" endorsement as provided in this section shall constitute an infraction.

History.

I.C., § 49-304, as added by 1994, ch. 234, § 5, p. 728; am. 1998, ch. 110, § 15, p. 375; am. 2002, ch. 355, § 2, p. 1011; am. 2005, ch. 25, § 56, p. 82; am. 2008, ch. 18, § 2, p. 26; am. 2009, ch. 30, § 7, p. 82.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 30, substituted "division of professional-technical edu-

cation" for "department of education" in subsection (3).

49-305. Instruction permits — Temporary licenses — Motorcycle endorsement instruction permit. — (1) Upon passage of the required knowledge tests appropriate for the vehicle being operated, the department may issue a class A, B or C instruction permit for the type of vehicle(s) the person will be operating, or a class D instruction permit for a class D motor vehicle, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of up to one hundred eighty (180) days or as provided in paragraph (b) of this subsection (1) for certain class D instruction permits. That person must be accompanied by an adult driver eighteen (18) years of age or older who holds a valid driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver.

(a) Any person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements of a class D supervised instruction permit, or any person who has reached the age of seventeen (17) years may apply for a class D instruction permit. Any person applying for any class D instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

(b) If a person reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, and such

class D supervised instruction permit becomes a class D instruction permit as provided in section 49-307, Idaho Code, then such class D instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(c) Any person who has reached the age of eighteen (18) years, holds a valid Idaho class D driver's license and has at least one (1) year of driving experience, may apply for a class A, B or C instruction permit.

(d) The department shall not issue a hazardous material endorsement on any instruction permit.

(2) The department may, at its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license may be canceled at the department's discretion at any time after issuance. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) A certified copy of an applicant's birth certificate shall be required before a class D driver's license or class D instruction permit will be issued.

(4) The department may issue a motorcycle endorsement instruction permit to an applicant who has a valid driver's license and who has successfully completed the motorcycle rider's knowledge test and paid the appropriate fees. The permit entitles the applicant, while having the permit in his immediate possession, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is an infraction. The department shall cancel the permit whether or not such violation results in conviction of the infraction.

History.

1935, ch. 88, § 11, p. 154; am. 1961, ch. 310, § 14, p. 576; am. and redesig. 1988, ch. 265, § 39, p. 549; am. 1989, ch. 88, § 18, p. 151; am. 1989, ch. 426, § 2, p. 1054; am. 1990, ch. 45, § 17, p. 71; am. 1991, ch. 89, § 4, p. 196; am. 1991, ch. 286, § 1, p. 737; am. 1992, ch. 115, § 9, p. 345; am. 1992, ch. 117, § 1, p. 390;

am. 1994, ch. 234, § 6, p. 728; am. 1994, ch. 347, § 2, p. 1098; am. 1996, ch. 348, § 4, p.; am. 1996, ch. 371, § 7, p. 1246; am. 1998, ch. 110, § 16, p. 375; am. 1999, ch. 81, § 8, p. 237; am. 2000, ch. 214, § 6, p. 583; am. 2000, ch. 327, § 3, p. 1101; am. 2004, ch. 297, § 1, p. 827; am. 2008, ch. 194, § 4, p. 612; am. 2010, ch. 16, § 2, p. 21.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 16, substi-

tuted "A certified" for "The certified" at the beginning of subsection (3).

49-306. Application for driver's license, instruction permit, or restricted school attendance driving permit. — (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements — age 21 years and older	\$40.00
(b) Class A, B, C (3-year) license with endorsements — age 18 to 21 years	\$30.00
(c) Class A, B, C (1-year) license with endorsements — age 20 years	\$15.00
(d) Class D (3-year) license — under age 18 years	\$25.00
(e) Class D (3-year) license — age 18 to 21 years	\$25.00
(f) Class D (1-year) license — age 17 years or age 20 years	\$15.00
(g) Four-year Class D license — age 21 years and older	\$30.00
(h) Eight-year Class D license — age 21 to 63 years	\$55.00
(i) Class A, B, C instruction permit	\$29.00
(j) Class D instruction permit or supervised instruction permit ..	\$15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code	\$15.00
(l) Driver's license extension issued under section 49-319, Idaho Code	\$10.00
(m) License classification change (upgrade)	\$25.00
(n) Endorsement addition	\$15.00
(o) Class A, B, C skills tests not more than	\$70.00
(p) Class D skills test	\$24.00
(q) Motorcycle endorsement skills test	\$10.00
(r) Knowledge test	\$ 3.00
(s) Seasonal driver's license	\$39.00
(t) One time motorcycle "M" endorsement	\$15.00
(u) Motorcycle endorsement instruction permit	\$15.00
(v) Restricted driving permit or restricted school attendance driving permit	\$60.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

- (i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and
- (ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and
- (iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

(c) Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and under which of the following driving categories the applicant will operate:

- (i) Non-excepted Interstate. The applicant operates or expects to operate in interstate commerce, and is required to provide a medical examiner's certificate;
- (ii) Excepted Interstate. The applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted by the federal motor carrier safety administration from all or parts of the qualification requirements of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate;
- (iii) Non-excepted Intrastate. The applicant operates only in intrastate commerce and is subject to and meets all Idaho driver qualification requirements and the applicable parts of federal motor carrier safety regulation 49, part 391, and is required to provide a medical examiner's certificate; or
- (iv) Excepted Intrastate. The applicant operates in intrastate commerce, but engages exclusively in exempted transportation or operations as listed in section 67-2901B(2), Idaho Code, and the applicable parts of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate.

All applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

The applicant must submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate. When a certified copy of his birth certificate or a delayed birth certificate is impossible to obtain from a vital statistics agency, another government issued document may be submitted that provides satisfactory evidence of a person's full legal name and date of birth acceptable to the examiner or the department.

(d) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to ensure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to ten dollars (\$10.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the ten dollar (\$10.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen dollars and fifty cents (\$17.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to seventeen dollars and fifty cents (\$17.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(b) Twenty-eight dollars (\$28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents (\$19.50) of each fee charged for a license pursuant to subsection (1)(b) of this section, and eight dollars and sixteen cents (\$8.16) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway account; and

(c) Twenty dollars (\$20.00) of each fee for a class A, B or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Four dollars (\$4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) Ten dollars (\$10.00) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(f) Seven dollars and fifty cents (\$7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the driver training fund; and

(h) Twelve dollars and seventy cents (\$12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents (\$20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents (\$10.50) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and six dollars and eighty-three cents (\$6.83) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution fund; and

- (i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and
- (j) Seven dollars and forty cents (\$7.40) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and
- (k) Ten dollars (\$10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account; and
- (l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and
- (m) Six dollars and fifty cents (\$6.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than sixty dollars (\$60.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Sixty dollars (\$60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

- (a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;
- (b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;
- (c) May only be obtained twice in a driver's lifetime;
- (d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and
- (e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

- (a) Have not violated the single license provisions of applicable federal regulations;
- (b) Have not had any license suspensions, revocations or cancellations;
- (c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;
- (d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and
- (e) Are at least sixteen (16) years old.

History.

1981, ch. 302, § 2, p. 624; am. 1982, ch. 78, § 2, p. 145; am. and redesig. 1988, ch. 265, § 40, p. 549; am. 1989, ch. 88, § 19, p. 151; am. 1992, ch. 115, § 10, p. 345; am. 1992, ch. 118, § 1, p. 391; am. 1993, ch. 300, § 3, p. 1105; am. 1993, ch. 304, § 1, p. 1126; am. 1994, ch. 234, § 7, p. 728; am. 1994, ch. 347, § 3, p. 1098; am. 1995, ch. 339, § 2, p. 1119; am. 1996, ch. 371, § 8, p. 1246; am. 1997, ch. 80, § 11, p. 165; am. 1997, ch. 357, § 1, p. 1052; am. 1998, ch. 110, § 17, p. 375; am. 1998, ch. 248, § 2, p. 809; am. 1998, ch. 394,

§ 1, p. 1235; am. 1999, ch. 81, § 9, p. 237; am. 1999, ch. 317, § 1, p. 797; am. 1999, ch. 318, § 1, p. 803; am. 1999, ch. 319, § 1, p. 811; am. 1999, ch. 360, § 2, p. 951; am. 2000, ch. 56, § 1, p. 111; am. 2000, ch. 214, § 7, p. 583; am. 2001, ch. 74, § 1, p. 171; am. 2001, ch. 110, § 49, p. 373; am. 2001, ch. 347, § 1, p. 1219; am. 2002, ch. 161, § 1, p. 474; am. 2002, ch. 235, § 3, p. 696; am. 2005, ch. 352, § 5, p. 1085; am. 2008, ch. 63, § 2, p. 156; am. 2009, ch. 331, § 3, p. 947; am. 2010, ch. 16, § 3, p. 21; am. 2010, ch. 225, § 3, p. 501; am. 2011, ch. 60, § 3, p. 124.

STATUTORY NOTES**Amendments.**

The 2009 amendment, by ch. 331, increased certain fees throughout the section; and, throughout subsection (8) and in subsection (10), substituted “state highway account” for “state highway fund”.

This section was amended by two 2010 acts which appear to be compatible and have been compiled together.

The 2010 amendment, by ch. 16, substituted the present provisions of the last paragraph of paragraph (2)(b) for “The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides satisfactory evidence of a person’s date of birth acceptable to the examiner or the department.”

The 2010 amendment, by ch. 225, added the last sentence in the introductory paragraph in subsection (2).

The 2011 amendment, by ch. 60, in subsection (2), added the paragraph (c) designation to the first part of the former second undesignated paragraph, adding “under which of the following driving categories the applicant will operate”; added paragraphs (i) to (iv), created a new undesignated paragraph from the remaining text, and redesignated former paragraph (c) as (d).

Legislative Intent.

Section 1 of S.L. 2009, ch. 331 provided: “Legislative Intent. It is the intent of the Legislature that the moneys raised through the increase in fees authorized by the provisions of this act be expended in the following order on and for the following:

“(a) First, moneys raised from the increase in fees should be expended to address any revenue deficit or shortfall that the Division of Motor Vehicles is operating under as of June 30, 2009.

“(b) Second, any moneys remaining after the expenditures relating to subsection (a) of this section, should be expended on improve-

ments to the Division of Motor Vehicle’s technology operations and improvements.

“(c) Third, any moneys remaining after the expenditures relating to subsections (a) and (b) of this section, should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems.

“(d) The department should review approximately every five (5) years the fees provided for in this act and recommend appropriate changes to such fees in the Legislature.”

Federal References.

The reference to federal motor carrier safety regulation 49, part 391, in paragraph (2)(c)(ii), is to 49 C.F.R. Part 391.

Section 3 of the federal military selection service act, referred to in the last paragraph of subsection (2), is codified as 50 USCS Appx § 453.

Compiler’s Notes.

The national driver register, referred to in subsection (3), is a database of information about drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations maintained by the national highway traffic safety administration.

The commercial driver license information system, referred to in subsection (5), is operated by the American association of motor vehicle administrators and assists jurisdictions in enforcing that each driver, nationwide, has only one driver license and one driving record.

Effective Dates.

Section 9 of S.L. 2009, ch. 331 provided that the act should take effect on and after January 1, 2010.

Section 8 of S.L. 2010, ch. 225 provided that the act should take effect on and after January 1, 2011.

Section 8 of S.L. 2011, ch. 60 provided that the act should take effect on and after Janu-

ary 30, 2012. Chapter 60 became law without the signature of the governor.

49-307. Class D driver's training instruction permit and temporary permits — Class D supervised instruction permit — Application for a class D driver's license — Restrictions on class D driver's license. — (1) No enrollee of any class D driver's training course shall be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit as provided in subsection (4) of this section.

(2) Every enrollee of a class D driver's training course shall pay a nonrefundable fee of fifteen dollars (\$15.00). Five dollars (\$5.00) of each fee so imposed shall be deposited in the driver training account, five dollars (\$5.00) shall be deposited in the state highway account, and five dollars (\$5.00) shall be deposited in the county current expense fund.

(3) Each enrollee of a class D driver's training course shall provide the type of information required for a driver's license or instruction permit. If an enrollee of a class D driver's training course cannot provide a certified copy of his birth certificate at the time of application for a permit, the department may issue a temporary driver's training instruction permit or a temporary class D instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver's training course. The certified copy of an applicant's birth certificate shall be required before a class D driver's license will be issued.

(4) The class D driver's training instruction permit shall expire five (5) days after the permittee's eighteenth birthday for permittees fourteen and one-half (14 1/2) years of age through seventeen and one-half (17 1/2) years of age. The class D driver's training instruction permit shall expire one hundred eighty (180) days from the date of issue for persons seventeen and one-half (17 1/2) years of age or older. Persons aged seventeen (17) years or older may attend classes or participate in driver's training instruction while operating with a class D instruction permit or a class D driver's training instruction permit.

(5) The class D driver's training instruction permit shall be issued to the instructor of the course.

(6) Class D supervised instruction permit.

(a) Upon successful completion of the class D driver's training course, the driver's training instructor shall submit the student log to the county driver's license office and give the class D driver's training instruction permit to the parent or legal guardian of the permittee, and the parent or legal guardian shall assume responsibility for ensuring that the permittee complies with the requirements of operating a vehicle with a class D supervised instruction permit. The class D driver's training instruction permit shall then serve as a class D supervised instruction permit.

(b) In the event the permittee reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, the supervised instruction permit shall become a class D instruction permit.

(7) No permittee may apply for a class D driver's license sooner than fifteen (15) years of age and no sooner than six (6) months after completing a class D driver's training course, during which time the permittee shall satisfy all requirements for operation of a class D vehicle with a class D supervised instruction permit as follows:

- (a) The permittee shall not operate a vehicle unless he is accompanied by a driver who holds a valid driver's license, is twenty-one (21) years of age or older, and who is actually occupying a seat beside the permittee driver. The supervising driver and the permittee shall be the only occupants of the front passenger section of the vehicle.
- (b) Over a period of time not less than six (6) months, the permittee shall accumulate at least fifty (50) hours of supervised driving time, ten (10) hours of which shall be during hours of darkness.
- (c) The permit shall be in the permittee's immediate possession at all times while operating a vehicle.
- (d) In addition to the permittee driver and the supervising driver, all other occupants of the vehicle shall wear a seat belt or be restrained by child passenger restraints as required by law.
- (e) The permittee is subject to the provisions of sections 18-1502 and 18-8004, Idaho Code, relating to violation of age restrictions on consumption of beer, wine, and alcohol and driving under the influence of alcohol, drugs or any other intoxicating substances, respectively.
- (f) The permittee shall not have been convicted of any moving traffic violation, or have had driving privileges suspended by the department or the court for any offense, or found to be in violation of any of the restrictions on the class D supervised instruction permit, for a period of at least six (6) months from the date the driver's training instructor gave the permit to the parent or legal guardian, or from the date a canceled class D supervised instruction permit was reissued, or until the permittee reaches seventeen (17) years of age.
- (g) If the permittee is under seventeen (17) years of age and is convicted of a violation of any traffic law, or section 18-1502, Idaho Code, or section 18-8004, Idaho Code, or section 23-949, Idaho Code, or is found to be in violation of any of the restrictions on the class D supervised instruction permit, the department shall cancel the class D supervised instruction permit, and the cancellation shall not be used to establish rates of motor vehicle insurance charged by a casualty insurer. If the permittee is under seventeen (17) years of age, the permittee may reapply for and be issued a new class D supervised instruction permit upon payment of the appropriate fee, and shall again be required to operate with the class D supervised instruction permit for at least six (6) months from the date of reissue without a conviction or suspension, accumulate the required hours of driving time and adhere to the requirements as specified in paragraphs (a) through (f) of this subsection (7).

(8) Upon completion of the requirements in subsection (7) of this section, the permittee shall take the knowledge test and skills test administered by a person certified by the Idaho transportation department to administer knowledge and skills tests.

(9) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license with driving privileges restricted to daylight hours for persons under sixteen (16) years of age, and with full privileges at sixteen (16) years of age or older. Provided however, the restriction on daylight hours only driving privileges for persons under sixteen (16) years of age shall not apply if:

- (a) The person under sixteen (16) years of age has a valid class D driver's license; and
- (b) Is accompanied by a driver who holds a valid driver's license and is twenty-one (21) years of age or older and is actually occupying a seat beside the licensee who is under sixteen (16) years of age; and
- (c) The two (2) licensed drivers are the only occupants of the front passenger section of the vehicle.

The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(10) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license. Any such licensee who is under the age of seventeen (17) years shall be required, during the first six (6) months from the date of issue of the class D driver's license, to limit the number of passengers in the vehicle who are under the age of seventeen (17) years to not more than one (1) such passenger. Provided however, the limit of one (1) passenger under the age of seventeen (17) years shall not apply to passengers who are related to the driver by blood, adoption or marriage.

History.

I.C., § 49-312A, as added by 1985, ch. 172, § 3, p. 450; am. and redesign. 1988, ch. 265, § 41, p. 549; am. 1989, ch. 88, § 20, p. 151; am. 1990, ch. 45, § 18, p. 71; am. 1994, ch.

347, § 4, p. 1098; am. 1998, ch. 110, § 18, p. 375; am. 2000, ch. 214, § 8, p. 583; am. 2003, ch. 47, § 3, p. 176; am. 2007, ch. 249, § 2, p. 730; am. 2008, ch. 194, § 5, p. 613; am. 2010, ch. 16, § 4, p. 21.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 16, in subsection (1), deleted the former last sentence which read: "The class D driver's training instruction permit shall expire five (5) days after the permittee's eighteenth birthday"; in the first sentence of subsection (4), substituted "shall expire five (5) days after the permittee's eighteenth birthday for permittees fourteen and one-half (14 1/2) years of age through seventeen and one-half (17 1/2)" for "is available to a person aged fourteen and one-half (14 1/2) years up to seventeen (17)"; added the second sentence in subsection (4); at the end of the last sentence of subsection (4), added "or a class D driver's training instruction permit"; in the first sentence of

paragraph (6)(a), substituted "submit the student log to the county driver's license office and give" for "date and sign", deleted "over" following "instruction permit", deleted "also date and sign the class D driver's training instruction permit and in so doing agrees to" following "legal guardian shall"; in the last sentence of paragraph (6)(a), deleted "signed and dated" preceding "class D driver's"; in paragraph (6)(b), deleted "and such class D instruction permit shall expire five (5) days after the permittee's eighteenth birthday" following "instruction permit"; in paragraph (7)(f), substituted "gave the permit" for "signed the permit over"; and, in the last sentence of paragraph (7)(g), substituted "fee" for "fees".

49-313. Examination of applicants. — (1) The sheriff, his deputy or authorized agents of the department shall examine every applicant for an instruction permit, restricted school attendance driving permit, seasonal driver's license, driver's license or a motorcycle endorsement, except as

otherwise provided by law. The examination shall include a vision screening and a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic. A skills test shall be required for an applicant who has not been previously licensed for the class of license requested, or who holds a license issued by another country unless a reciprocal agreement is in force. However, a skills test may be required for any and all other applicants at the discretion of the examiner or department for a class A, B, C or D driver's license or a motorcycle endorsement. In addition, the applicant's knowledge of traffic laws of this state and when a motorcycle endorsement is applied for, the applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skills examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skills test for a class A, B, C or D driver's license or for any endorsement shall be given by the department or its authorized agents. The skills examiner for a motorcycle endorsement shall be certified by the division of professional-technical education.

(4) The department shall not issue the following endorsements except as provided:

(a) A tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test.

(b) A passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(c) A school bus endorsement unless the applicant, in addition to all other applicable qualifications, has passed appropriate knowledge and skills tests. Until September 30, 2005, the department may waive the school bus endorsement skills test requirement if the applicant meets the conditions set forth in accordance with 49 CFR part 383.123.

(5) Any person failing to pass a knowledge or skills test for a class A, B, C or D driver's license, or a knowledge test for a seasonal driver's license, or any endorsement may not retake the test within three (3) business days of the failure.

(6) Any person retaking a knowledge or skills test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(7) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) On and after September 1, 1998, if the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the division of professional-technical education;

(b) On and after September 1, 1998, if the applicant presents evidence of a motorcycle endorsement on his current license by a state or province

which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the division of professional-technical education;

(c) Until September 1, 1998.

(8) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(9) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the vision screening, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(10) The department or its authorized agents may deny issuance or renewal of a driver's license or endorsement to any applicant who does not meet the licensing requirements for the class of driver's license or endorsement being renewed or issued.

(11) Skills examinations for seasonal driver's licenses shall be waived.

History.

1935, ch. 88, § 16, p. 154; am. 1943, ch. 146, § 2, p. 291; am. 1951, ch. 183, § 8, p. 383; am. 1975, ch. 169, § 1, p. 459; am. 1976, ch. 54, § 1, p. 191; am. 1977, ch. 68, § 1, p. 130; am. 1979, ch. 82, § 1, p. 200; am. and redesign. 1988, ch. 265, § 47, p. 549; am. 1989, ch. 88, § 25, p. 151; am. 1990, ch. 45, § 19, p. 71; am. 1991, ch. 89, § 5, p. 196; am. 1993, ch. 300,

§ 4, p. 1105; am. 1994, ch. 234, § 8, p. 728; am. 1995, ch. 339, § 3, p. 1119; am. 1996, ch. 371, § 9, p. 1246; am. 1997, ch. 357, § 2, p. 1052; am. 1998, ch. 110, § 19, p. 375; am. 2000, ch. 214, § 10, p. 583; am. 2002, ch. 235, § 6, p. 696; am. 2005, ch. 352, § 6, p. 1085; am. 2009, ch. 30, § 8, p. 82; am. 2012, ch. 32, § 1, p. 96.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 30, in subsections (3) and (7), substituted "division of professional-technical education" for "department of education."

The 2012 amendment, by ch. 32, substi-

tuted "a vision screening and a test of the applicant's ability to read" for "a test of the applicant's eyesight, his ability to read" in the second sentence in subsection (1) and substituted "vision screening" for "eye test" in the second sentence in subsection (9).

49-314. Local examiners appointed by department. — (1) The department shall appoint the sheriff in each county and may appoint any deputy sheriff, chief of police, or other officials or private citizens whom the department deems qualified as examiners, who shall be agents of the department and shall perform duties prescribed in this title.

(2) The department shall appoint at least one (1) employee in the department who shall be skilled and highly qualified in the method of giving driver's license examinations, who shall have authority, and it shall be this person's duty to instruct the examiners appointed by the department in the method of giving driver's license examinations and acquaint them with the use of equipment and forms needed in examining applicants for licensure.

(3) Agents of the department appointed to administer skill tests for class A, B or C driver's licenses must be certified according to 49 CFR part 383.

(4) Agents of the department appointed to administer the skills test for a motorcycle endorsement shall be certified by the division of professional-technical education.

(5) Agents of the department to administer skills tests for class D driver's license shall be certified by the department.

History.

1988, ch. 265, § 48, p. 549; am. 1989, ch. 88, § 3, p. 1052; am. 2009, ch. 30, § 9, p. 82. § 26, p. 151; am. 1990, ch. 45, § 20, p. 71; am.

1994, ch. 234, § 9, p. 728; am. 1997, ch. 357,

§ 3, p. 1052; am. 2009, ch. 30, § 9, p. 82.

STATUTORY NOTES**Amendments.**

The 2009 amendment, by ch. 30, in subsection (4), substituted "division of professional-

technical education" for "department of education."

49-315. Licenses issued to drivers. — (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant's driver's license shall contain his or her alternative Idaho mailing address in place of his or her Idaho residence address. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR parts 383 and 384.

(4) A licensee applying for a hazardous material endorsement on a driver's license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(5) A licensee who desires to donate any or all organs or tissue in the

event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the driver's license by the imprinting of the word "donor" on the license. The provisions of this subsection shall apply to licensees sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with and the donor indicates this desire be placed on the license.

(6) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

History.

1935, ch. 88, § 18, p. 154; am. 1951, ch. 183, § 10, p. 383; 1965, ch. 81, § 1, p. 131; am. 1977, ch. 129, § 1, p. 275; am. 1978, ch. 178, § 1, p. 408; am. 1981, ch. 297, § 1, p. 617; am. 1982, ch. 95, § 44, p. 185; am. 1987, ch. 186, § 1, p. 368; am. and redesig. 1988, ch. 265, § 49, p. 549; am. 1989, ch. 88, § 27, p. 151; am. 1991, ch. 203, § 1, p. 482; am. 1992, ch.

115, § 12, p. 345; am. 1994, ch. 85, § 1, p. 200; am. 1998, ch. 110, § 20, p. 375; am. 1999, ch. 318, § 2, p. 803; am. 2001, ch. 74, § 2, p. 171; am. 2001, ch. 332, § 2, p. 1165; am. 2002, ch. 171, § 17, p. 493; am. 2004, ch. 297, § 2, p. 827; am. 2006, ch. 164, § 5, p. 489; am. 2006, ch. 265, § 4, p. 821; am. 2010, ch. 225, § 4, p. 501.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 225, added the second sentence in subsection (1).

Effective Dates.

Section 8 of S.L. 2010, ch. 225 provided that the act should take effect January 1, 2011.

49-317. Restricted driver's licenses. — (1) The department, upon issuing a driver's license, shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to:

- (a) The type of or special mechanical control devices required or not permitted on a motor vehicle which the licensee may operate;
- (b) Medical variances as determined by the federal motor carrier safety administration; or
- (c) Other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(2) The department may either issue a special restricted driver's license or may set forth restrictions upon the usual driver's license form.

(3) The department shall, upon receiving satisfactory evidence of any violation of the restrictions of a driver's license, suspend the driver's license or privileges for a period of thirty (30) days but the licensee shall be entitled to a hearing as provided in section 49-326, Idaho Code.

History.

1935, ch. 88, § 20, p. 154; am. and redesig.

1988, ch. 265, § 51, p. 549; am. 1989, ch. 88, § 29, p. 151; am. 1992, ch. 115, § 13, p. 345;

am. 2011, ch. 60, § 4, p. 124.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 60, in subsection (1), added the paragraphs (a) and (c) designations and added paragraph (b).

the act should take effect on and after January 30, 2012. Chapter 60 became law without the signature of the governor.

Effective Dates.

Section 8 of S.L. 2011, ch. 60 provided that

49-319. Expiration and renewal of driver's license. — (1) Every noncommercial Idaho driver's license issued to a driver shall expire and be renewable as follows:

- (a) Twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license.
- (b) At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license.
- (c) Except for the provisions found in subsections (1)(e) and (3) of this section, every driver's license issued to a driver under eighteen (18) years of age shall expire five (5) days after the licensee's eighteenth birthday.
- (d) Except for the provisions found in subsections (1)(e) and (3) of this section, every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the licensee's twenty-first birthday.
- (e) Every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twenty-five (25) months before, upon application, payment of the required fee, and satisfactory completion of the required vision screening.

(2) Except for the provisions found in subsection (3) of this section, every commercial driver's license issued to a person twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following issuance of the license, and any class A, B or C license issued to a person eighteen (18), nineteen (19) or twenty (20) years of age shall expire five (5) days after the licensee's twenty-first birthday. There shall be no option for an eight-year class A, B or C license.

(3) Every driver's license issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of license issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued a driver's license with an expiration date of one (1) year from the date of issuance. Fees shall be in accordance with the expiration periods and classes listed in section 49-306(1), Idaho Code.

(4) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(5) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) Applicants for a hazardous material endorsement shall provide either proof of United States citizenship or proof of lawful, permanent United States residence and a valid federal bureau of citizenship and immigration services alien registration number. A security background records check and federal transportation security administration clearance shall be required for issuance, renewal or transfer of a hazardous material endorsement in accordance with 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(7) When a driver's license has been expired for fewer than twenty-five (25) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twenty-five (25) months or more, the applicant shall be required to take the appropriate knowledge test(s) and skills test(s) for the class of license or endorsement being applied for, and vision screening. The license shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers twenty-one (21) years of age or older, except as otherwise provided in subsections (1)(e) and (3) of this section. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance, except as otherwise provided in subsections (1)(e) and (3) of this section.

(8)(a) If a driver's license has expired or will expire and the licensee is temporarily out of state, except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, canceled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be no more than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a license showing the date to which the expired driver's license is extended. License extensions are limited to two (2) consecutive extensions per licensee.

(b) Upon returning to the state of Idaho, the licensee shall, within ten (10) days, apply for a renewal of the expired driver's license and surrender the extended license and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(9) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the

immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, or shall be renewed upon application in person without the requirement to take a knowledge or skills test if their Idaho driver's license expired while on active duty, if the driver's license is not suspended, denied, disqualified, canceled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(10) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(11) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

(12) A person who applies for renewal of a license may request that the notation "permanently disabled" be imprinted on the license and the department shall imprint "permanently disabled" on the license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician, licensed physician assistant, or licensed advanced practice professional nurse verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a license as specified in section 49-313, Idaho Code.

History.

I.C., § 49-322, as added by 1977, ch. 43, § 2, p. 77; am. 1979, ch. 82, § 2, p. 200; am. 1982, ch. 95, § 45, p. 185; am. 1983, ch. 254, § 1, p. 673; am. 1985, ch. 172, § 5, p. 450; am. 1986, ch. 203, § 2, p. 506; am. 1986, ch. 326, § 1, p. 801; am. and redesig. 1988, ch. 265, § 53, p. 549; am. 1989, ch. 88, § 31, p. 151; am. 1990, ch. 45, § 22, p. 71; am. 1992, ch. 115, § 15, p. 345; am. 1993, ch. 300, § 6, p.

1105; am. 1996, ch. 371, § 11, p. 1246; am. 1998, ch. 110, § 22, p. 375; am. 1999, ch. 81, § 12, p. 237; am. 1999, ch. 317, § 2, p. 797; am. 1999, ch. 318, § 3, p. 803; am. 2000, ch. 56, § 2, p. 111; am. 2001, ch. 332, § 4, p. 1165; am. 2004, ch. 126, § 4, p. 422; am. 2004, ch. 297, § 3, p. 827; am. 2004, ch. 339, § 1, p. 1012; am. 2008, ch. 63, § 3, p. 161; am. 2012, ch. 32, § 2, p. 96.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 32, in subsection (1), inserted "Except for the provisions found in subsections (1)(e) and (3) of this section" at the beginning of paragraphs (c) and (d); in paragraph (1)(e), deleted "Except licenses issued to drivers under twenty-one (21) years of age" from the beginning, substituted "twenty-five (25) months" for "twelve (12) months" near the middle, and substituted "vision screening" for "eyesight examination" at the end; inserted "Except for the provisions found in subsection (3) of this section" at the beginning of subsection (2); in subsection (7), deleted "Except for drivers under twenty-one

(21) years of age" at the beginning, substituted "twenty-five (25) months" for "twelve (12) months" in the first and second sentences, substituted "appropriate knowledge test(s) and skills test(s)" for "knowledge, skills" and "vision screening" for "vision tests and the application" in the second sentence, inserted "The license" at the beginning of the third sentence, substituted "subsections (1)(e) and (3)" for "subsection (3)" at the end of the third and fourth sentences; in paragraph (8)(a), substituted "not more" for "less" in the second sentence, substituted "license" for "certificate of extension" near the middle and deleted "and this certificate shall be attached

to the expired driver's license" at the end of the third sentence, and rewrote the last sentence, which formerly read: "Certificates of

extension are limited to two (2) per license" and, in paragraph (8)(b), substituted "extended license" for "certificate of extension."

RESEARCH REFERENCES

A.L.R. — Validity of state statutes, regulations, or other identification requirements re-

stricting or denying driver's licenses to illegal aliens. 16 A.L.R.6th 131.

49-321. Records to be kept by the department. — (1) The department shall file every application for a driver's license received by it and shall maintain suitable indices containing:

- (a) All applications denied and on each note the reason for denial;
- (b) All applications granted;
- (c) The name of every licensee whose driver's license has been suspended, revoked, canceled, denied or disqualified by the department and after each name note the reasons for the action;
- (d) The driver's license number for the applicant; and
- (e) The social security number of the applicant.

(2) The department shall file the original or copy of the medical examiner's certificates, medical exemption letters and skill performance evaluation certificates of all commercial driver's license or instruction permit holders required to provide documentation of their physical qualification. The department shall maintain the document(s) for a period of three (3) years beyond the date the certificate or document was issued.

(3) The department shall also file all accident reports and abstracts of court records of convictions received by it under the law from any jurisdiction and is authorized to forward records of convictions, suspensions or disqualifications to any jurisdiction. Records may be in either paper or electronic form. The department shall maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions and the traffic accidents in which the licensee has been involved shall be readily ascertainable and available for consideration of the department upon any application for renewal of a driver's license and at other suitable times.

(4) The department of health and welfare, on or about the 25th day of each month shall, upon the request of the department, furnish the department a listing showing the name, age, county of residence, and residence address of each Idaho resident who has died during the preceding month. The listing shall be used only for purposes of updating the driver's license files of the department and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

History.

1935, ch. 88, § 24, p. 154; am. 1937, ch. 160, § 1, p. 258; am. 1939, ch. 225, § 3, p. 498; am. 1974, ch. 95, § 1, p. 1194; am. 1982, ch. 95, § 46, p. 185; am. and redesig. 1988, ch. 265, § 55, p. 549; am. 1989, ch. 88, § 33, p. 151;

am. 1990, ch. 45, § 23, p. 71; am. 1990, ch. 213, § 69, p. 480; am. 1998, ch. 110, § 24, p. 375; am. 2000, ch. 52, § 2, p. 100; am. 2006, ch. 164, § 6, p. 489; am. 2011, ch. 60, § 5, p. 124.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 60, added subsection (2) and redesignated former subsections (2) and (3) as present subsections (3) and (4).

Effective Dates.

Section 8 of S.L. 2011, ch. 60 provided that the act should take effect on and after January 30, 2012. Chapter 60 became law without the signature of the governor.

49-322. Authority of department to cancel driver's license or instruction permit. — (1) The department shall cancel any driver's license, restricted school attendance driving permit, or instruction permit upon determining that the licensee or permittee was not entitled to the issuance of the driver's license or instruction permit, or that the licensee or permittee failed to give the required or correct information in his application, or committed fraud in making the application.

(2) Upon a cancellation, the licensee or permittee shall surrender the canceled driver's license or canceled instruction permit to the department.

(3) The department shall cancel a person's commercial driver's license upon determining that the class A, B or C licensee has falsified information. Upon cancellation of a class A, B or C driver's license, the licensee shall be disqualified from operating a commercial motor vehicle for a period of sixty (60) days.

(4) The department shall decertify the medical status and initiate a downgrade of any driver who is required by the federal motor carrier safety administration to maintain a medical examiner's certificate and/or medical exemption letter or skill performance evaluation certificate upon determining the person's medical certification has expired or has been revoked or canceled. The department shall change the person's driving status in the driver record to "not-certified," within ten (10) days and shall mail a notification letter regarding the pending decertification and downgrade action to the driver's last known address. The downgrade action shall occur no more than sixty (60) days from the date the "not-certified" status is posted to the record. Drivers can remove the "not-certified" medical status from their driving record by presenting a current and valid medical examiner's certificate and/or medical exemption letter or skill performance evaluation certificate to the department or by submitting an application to the department requesting their medical status be changed to "Excepted."

(5) When a driver's license has been canceled for reasons of impairment, incompetence or inability of the licensed driver to operate a motor vehicle safely as provided in section 49-303 or 49-326, Idaho Code, and the licensee has voluntarily surrendered his driver's license, or when a licensed driver requests cancellation of his license for any of the same reasons stated in this subsection and he voluntarily surrenders his license, the licensee may be eligible for a no-fee identification card as provided in section 49-2444, Idaho Code.

History.

1935, ch. 88, § 25, p. 154; am. and redesig. 1988, ch. 265, § 56, p. 549; am. 1989, ch. 88, § 34, p. 151; am. 1992, ch. 115, § 16, p. 345;

am. 1999, ch. 79, § 1, p. 225; am. 2000, ch. 214, § 11, p. 583; am. 2002, ch. 235, § 8, p. 696; am. 2011, ch. 60, § 6, p. 124.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 60, added subsection (4) and redesignated former subsection (4) as subsection (5).

the act should take effect on and after January 30, 2012. Chapter 60 became law without the signature of the governor.

Effective Dates.

Section 8 of S.L. 2011, ch. 60 provided that

49-326. Authority of department to suspend, disqualify or revoke driver's license and privileges. — (1) If the court has not ordered the suspension of a license or privileges, the department is authorized to suspend, disqualify or revoke the license or privileges of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the driver:

- (a) Has committed an offense for which mandatory revocation, suspension or disqualification of license or privileges is required upon conviction, court order or administrative action;
- (b) Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension, revocation or disqualification of his driver's license or privileges had the charge been prosecuted under a state law;
- (c) Is incompetent to drive a motor vehicle;
 - 1. Any person who in the opinion of the department, based upon recommendation of the person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when the person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.
 - 2. Any person who shall not have minimum visual acuity with or without corrective lenses of 20/40 in at least one (1) eye as determined by the Snellen system or other available systems is incompetent to operate a motor vehicle, however, the department shall have the authority to license such person upon the recommendation of an ophthalmologist or qualified physician and upon passage of a skills test. At 20/70 or more in both eyes with or without corrective lenses the department may suspend the driver's license and privileges. Any person who applies for or receives any type of tax, welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to operate a motor vehicle.
 - 3. Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the blind shall immediately forward the name, address, sex, date of birth, and date of application of the applicant to the department.

4. Any physician who has reason to believe that a patient is incompetent to drive a motor vehicle as defined in this subsection, may submit a report to the department. Before submitting a report, a physician should notify the patient or the patient's family of the physician's concerns about the patient's ability to drive. If the physician submits a report, the physician shall provide a copy of the report to the patient or to a member of the patient's family. If a physician submits a report in good faith, no professional disciplinary procedure, no monetary liability and no cause of action may arise against the physician for submission of the report;

- (d) Has permitted an unlawful or fraudulent use of a driver's license;
- (e) Has committed an offense in another state or jurisdiction as evidenced by a conviction, court order or administrative action, which if committed in Idaho would be grounds for suspension, disqualification or revocation;
- (f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;
- (g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;
- (h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;
- (i) Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period;
- (j) Is an habitual violator of traffic laws;
- (k) Has been convicted of the offense of violation of a restricted license and providing the driver's license and privileges be suspended for a period of thirty (30) days;
- (l) Has been convicted for the offense of leaving the scene of an accident involving damages to a vehicle, the period of revocation shall be one (1) year;
- (m) Has been convicted for the offense of leaving the scene of an accident resulting in injury or death, the period of revocation shall be one (1) year;
- (n) Is under the age of eighteen (18) years and is not satisfactorily enrolled in school, has not received a waiver pursuant to or has not completed school as provided in section 49-303A, Idaho Code;
- (o) Was cited under the age of seventeen (17) years and subsequently received a conviction involving a moving traffic violation arising out of the operation of a motor vehicle, and providing the driver shall be sent a written warning from the Idaho transportation department for a first conviction; the driver's license shall be suspended for a period of thirty (30) days for a second conviction; and the driver's license shall be suspended for a period of sixty (60) days for a third or subsequent conviction; and providing further that no restricted driving privileges shall be issued during any period of suspension hereunder.

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. Conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count.

(3) The department is authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of driver's licenses issued by the department.

(4) Notification of suspension, revocation, cancellation or disqualification. Upon suspending, revoking, canceling or disqualifying the driver's license or driving privileges of any person, the department shall immediately notify the applicant or licensee in writing, at the licensee's address on file with the department pursuant to section 49-320, Idaho Code. Upon his request the department shall afford him an opportunity for a hearing before a hearing officer appointed by the director. The hearing may be held by telephone within twenty (20) days after receipt of the request, unless this period is for good cause shown, extended by the hearing officer for one ten-day period. The notice and hearing shall be required prior to the imposition of additional suspension or disqualification periods beyond the periods as set forth in this section. Upon a hearing the hearing officer may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon the hearing the department shall either rescind its order or, with good cause, may affirm or extend the suspension or disqualification of the driver's license or revoke the driver's license.

Whenever a driver's license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsection (1)(c), (d), (g), (h), (m), (n) or (o) of this section, the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule. A temporary restricted permit may be issued to grant noncommercial driving privileges, but no temporary restricted permit shall be issued which grants driving privileges to operate a commercial motor vehicle.

(5) The department shall not suspend or revoke a driver's license or privileges for a period of more than one (1) year, unless otherwise provided by law. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code, nor shall it be applicable to those suspensions placed on an individual's record for the purpose of administering suspensions ordered to take effect after an individual's release from confinement or imprisonment pursuant to chapter 80, title 18, Idaho Code.

(6) The department shall not disqualify a driver for a period longer than specified by 49 CFR part 383.

History.

1935, ch. 88, §§ 30, 31, p. 154; am. 1955, ch. 163, § 2, p. 323; am. 1959, ch. 236, § 1, p. 505; am. 1961, ch. 190, § 1, p. 283; am. 1963, ch. 362, § 2, p. 1032; am. 1965, ch. 97, § 1, p. 180; am. 1967, ch. 353, § 1, p. 996; am. 1967, ch. 378, § 1, p. 1113; am. 1969, ch. 458, § 3, p. 1269; am. 1974, ch. 27, § 112, p. 811; am. 1976, ch. 53, § 1, p. 187; am. 1981, ch. 223, § 19, p. 415; am. 1982, ch. 95, § 49, p. 185; am. 1982, ch. 353, § 13, p. 864; am. 1983 (Ex. Sess.), ch. 3, § 4, p. 8; am. 1984, ch. 22, § 4, p.

25; am. 1986, ch. 208, § 1, p. 531; am. and redesig. 1988, ch. 265, § 60, p. 549; am. 1989, ch. 88, § 38, p. 151; am. 1990, ch. 45, § 26, p. 71; am. 1992, ch. 115, § 18, p. 345; am. 1994, ch. 357, § 2, p. 1117; am. 1996, ch. 348, § 3, p. 1159; am. 1996, ch. 371, § 13, p. 1246; am. 1997, ch. 238, § 4, p. 689; am. 1998, ch. 110, § 26, p. 375; am. 1998, ch. 152, § 2, p. 523; am. 1999, ch. 81, § 13, p. 237; am. 2000, ch. 214, § 12, p. 583; am. 2004, ch. 126, § 6, p. 422; am. 2005, ch. 352, § 8, p. 1085; am. 2011, ch. 124, § 1, p. 348.

STATUTORY NOTES**Amendments.**

The 2011 amendment, by ch. 124, added paragraph (1)(c)4.

JUDICIAL DECISIONS**Suspension of CDL.**

When defendant, who held a CDL but was not operating a commercial vehicle when stopped, failed to file a timely request for an administrative hearing on the suspension of his license under § 18-8002A, he waived his right to challenge the suspension of his driv-

er's license; however, he was still entitled to a separate administrative hearing relating to the suspension of his CDL under subsection (4) of this section. *Wanner v. DOT (In re License Suspension of Wanner)*, 150 Idaho 164, 244 P.3d 1250 (2011).

49-328. Reinstatement of revoked, disqualified or suspended driver's license — Fee — When reinstatement prohibited. — (1) When the period of revocation, disqualification or suspension of a driver's license has expired, or the reason for the revocation, disqualification or suspension no longer exists, the department shall reinstate the driver's license or driving privileges on application of the driver.

(2) The application shall be in the form prescribed by the department and accompanied by a reinstatement fee of twenty-five dollars (\$25.00) which shall be deposited in the state highway account.

(3) A driver's license which has been suspended under section 49-1505, Idaho Code, for failure to pay an infraction penalty shall not be reinstated until the licensee provides proof that the infraction penalty has been paid to the court.

(4) In addition to any other fees required in this section to be collected, the department shall collect sixty dollars (\$60.00) for reinstating a driver's license after conviction for driving under the influence, without privileges, and after conviction or other violation of any other traffic related misdemeanor or infraction, of which fees forty dollars (\$40.00) shall be paid over to the county treasurer of the county in which the conviction occurred for support of that county's justice fund, or the current expense fund if no county justice fund has been established, and the twenty dollars (\$20.00) shall be deposited in the state highway account.

(5) In addition to any other fees required in this section to be collected, the department shall collect two hundred dollars (\$200) for reinstating a driver's license after a suspension imposed under the provisions of section

18-8002 or section 18-8002A, Idaho Code, or after a revocation, disqualification or suspension arising out of any alcohol or drug related offense, other than a suspension imposed upon a person under eighteen (18) years of age pursuant to section 18-1502(d), Idaho Code. Funds collected pursuant to this subsection shall be deposited in the state highway account.

(6) When there is more than one (1) reason why a driver's license was revoked or suspended or why a driver was disqualified, the department shall not collect multiple fees for reinstatement, but shall only collect one (1) reinstatement fee, which shall be the greater reinstatement fee, provided however, the department shall collect a reinstatement fee for each revocation, disqualification or suspension under chapter 80, title 18, Idaho Code.

History.

I.C., § 49-331A, as added by 1983, ch. 25, § 5, p. 66; am. 1984, ch. 195, § 24, p. 445; am. 1986, ch. 203, § 3, p. 506; am. and redesig. 1988, ch. 265, § 62, p. 549; am. 1989, ch. 88, § 40, p. 151; am. 1990, ch. 45, § 27, p. 71; am. 1990, ch. 216, § 3, p. 579; am. 1990, ch. 432,

§ 2, p. 1198; am. 1992, ch. 115, § 20, p. 345; am. 1993, ch. 413, § 3, p. 1515; am. 1994, ch. 357, § 3, p. 1117; am. 1997, ch. 227, § 2, p. 689; am. 1997, ch. 238, § 5, p. 664; am. 1999, ch. 81, § 14, p. 237; am. 2008, ch. 18, § 4, p. 27; am. 2009, ch. 331, § 4, p. 947.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 331, increased the fees throughout the section; and in subsection (5), deleted the former last sentence, which read: "The department shall reevaluate the amount of the reinstatement fee herein imposed not later than February, 2000, to determine the sufficiency of the fee to meet the costs associated with the implementation of section 18-8002A, Idaho Code".

Legislative Intent.

Section 1 of S.L. 2009, ch. 331 provided: "Legislative Intent. It is the intent of the Legislature that the moneys raised through the increase in fees authorized by the provisions of this act be expended in the following order on and for the following:

"(a) First, moneys raised from the increase in fees should be expended to address any revenue deficit or shortfall that the Division

of Motor Vehicles is operating under as of June 30, 2009.

"(b) Second, any moneys remaining after the expenditures relating to subsection (a) of this section, should be expended on improvements to the Division of Motor Vehicle's technology operations and improvements.

"(c) Third, any moneys remaining after the expenditures relating to subsections (a) and (b) of this section, should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems.

"(d) The department should review approximately every five (5) years the fees provided for in this act and recommend appropriate changes to such fees in the Legislature."

Effective Dates.

Section 9 of S.L. 2009, ch. 331 provided that the act should take effect on and after January 1, 2010.

49-330. Right of appeal to court.

JUDICIAL DECISIONS

Cited in: Archer v. Dep't of Transp. (In re Archer), 145 Idaho 617, 181 P.3d 543 (Ct. App. 2008); Wheeler v. Idaho Transp. Dep't, 148 Idaho 378, 223 P.3d 761 (Ct. App. 2009); McDaniel v. State (In re Driver's License

Suspension of McDaniel), 149 Idaho 643, 239 P.3d 36 (Ct. App. 2010); Burton v. State, 149 Idaho 746, 240 P.3d 933 (Ct. App. 2010); Wilkinson v. State, 151 Idaho 784, 264 P.3d 680 (Ct. App. 2011).

49-335. Disqualifications and penalties — Commercial driver's license. — (1) Any person who operates a commercial motor vehicle or who

holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if convicted in the form of a judgment or withheld judgment of a first violation under any state or federal law of:

- (a) Operating a motor vehicle while under the influence of alcohol or a controlled substance;
- (b) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or bodily substance is 0.04 or more;
- (c) Leaving the scene of an accident involving a motor vehicle driven by the person;
- (d) Using a motor vehicle in the commission of any felony;
- (e) Operating a commercial motor vehicle when the person's class A, B or C commercial driver's license driving privileges were revoked, suspended or canceled, or during a time when such person was disqualified from operating a commercial motor vehicle, if the reason for such revocation, suspension, cancellation or disqualification was the result of a violation that occurred while the person was operating a commercial motor vehicle;
- (f) Causing a fatality through negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.

(2) Any person who operates a commercial motor vehicle or who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if the person refuses to submit to or submits to and fails a test to determine the driver's alcohol, drug or other intoxicating substances concentration while operating a motor vehicle.

(3) If any of the offenses specified in subsection (1) or (2) of this section occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three (3) years.

(4) A person is disqualified for the period of time specified in 49 CFR part 383 if found to have committed two (2) or more of any of the offenses specified in subsection (1) or (2) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(5) A person is disqualified for the period of time specified in 49 CFR part 383 from operating a commercial motor vehicle who uses a motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense such controlled substance.

(6) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period. A conviction for reckless driving shall be considered a serious traffic violation if committed while operating a commercial motor vehicle or a noncommercial motor vehicle, as specified in 49 CFR part 383.

(7) A person who drives, operates, or is in physical control of a commercial motor vehicle within this state while having any detectable amount of

alcohol in his system or who refuses to submit to an alcohol test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

(8) It is unlawful to violate an out-of-service order. A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle is disqualified for not less than:

- (a) One hundred eighty (180) days nor more than one (1) year for a first conviction;
- (b) Two (2) years nor more than five (5) years for a second conviction arising from separate incidents during any ten (10) year period;
- (c) Three (3) years nor more than five (5) years for three (3) or more convictions arising from separate incidents during any ten (10) year period.

(9) A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle and while transporting hazardous materials required to be placarded under the hazardous materials transportation act, or while operating motor vehicles designed to transport sixteen (16) or more people including the driver, is disqualified for not less than:

- (a) One hundred eighty (180) days nor more than two (2) years for a first conviction;
- (b) Three (3) years nor more than five (5) years for subsequent convictions arising from separate incidents in any ten (10) year period.

(10) A person is disqualified from operating a commercial motor vehicle if convicted of a railroad grade crossing violation as specified in 49 CFR part 383 or applicable state laws while operating a commercial motor vehicle. The disqualification shall be for a period of:

- (a) Sixty (60) days for a first conviction;
- (b) One hundred twenty (120) days for a second conviction during any three (3) year period;
- (c) One (1) year for a third or subsequent conviction during any three (3) year period.

(11) A person is disqualified from operating a commercial motor vehicle if the federal motor carrier administration has determined the person's driving constitutes an imminent hazard, as defined in 49 CFR 383.5.

(a) An imminent hazard disqualification may not exceed one (1) year in duration. The driver, or a representative on his or her behalf, may file an appeal of the disqualification with the assistant administrator, adjudications counsel, federal motor carrier safety administration.

(b) Any imminent hazard disqualification transmitted by the federal motor carrier safety administration shall become a part of the driver's record.

(c) The imminent hazard disqualification shall run concurrent to any other existing disqualification.

(12) In addition to the disqualification periods in subsections (8) and (9) of this section, a driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than two thousand five hundred

dollars (\$2,500) for the first conviction and not less than five thousand dollars (\$5,000) for any subsequent conviction.

History.

I.C., § 49-335, as added by 1989, ch. 88, § 45, p. 151; am. 1990, ch. 45, § 30, p. 71; am. 1993, ch. 300, § 7, p. 1105; am. 1996, ch. 371, § 14, p. 1246; am. 1998, ch. 110, § 27, p. 375;

am. 1999, ch. 81, § 15, p. 237; am. 2002, ch. 181, § 1, p. 527; am. 2005, ch. 352, § 9, p. 1085; am. 2006, ch. 164, § 8, p. 489; am. 2007, ch. 100, § 1, p. 303; am. 2009, ch. 155, § 1, p. 453; am. 2010, ch. 49, § 3, p. 89.

STATUTORY NOTES**Amendments.**

The 2009 amendment, by ch. 155, added subsections (1)(e) and (1)(f); in the introductory paragraph in subsection (8), deleted "for a holder of a class A, B or C license" following "unlawful"; in subsections (8)(a) and (8)(b), substituted "One hundred eighty (180) days" for "Ninety (90) days" and "Two (2) years" for "One (1) year" respectively; deleted subsections (11) and (12), which related to additional disqualification circumstances under 49 CFR part 383-conviction of operating a commercial motor vehicle during a time when a person's class A, B or C driving privileges were revoked, and conviction of causing a fatality

through the negligent operation of a commercial vehicle, including, but not limited to, manslaughter, homicide by motor vehicle, or negligent homicide by motor vehicle, respectively; and redesignated former subsection (13) as subsection (11), and therein substituted the language beginning "not less than two thousand five hundred dollars" for "not less than one thousand one hundred dollars (\$1,100) not more than two thousand seven hundred fifty dollars (\$2,750)."

The 2010 amendment, by ch. 49, added present subsection (11) and redesignated former subsection (11) as subsection (12).

JUDICIAL DECISIONS**Double Jeopardy.**

One-year commercial driver's license (CDL) disqualification was civil in nature and did not rise to the level of a criminal punishment for double jeopardy purposes; the driver was not denied due process because the CDL disqualification statute was not ambiguous as to

the date the driver's CDL disqualification was to begin, and estoppel was not an appropriate remedy against the Idaho department of transportation in this case. *Buell v. Idaho DOT (In re Driver's License Suspension of Buell)*, 151 Idaho 257, 254 P.3d 1253 (Ct. App. 2011).

49-337. Employee and employer responsibilities. — (1) Any operator of a commercial motor vehicle or any person who holds a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance in any other state relating to motor vehicle traffic control, other than parking violations, such person shall notify the department of the conviction in the manner specified by the department within thirty (30) days of the date of conviction.

(2) Any operator of a commercial motor vehicle or any person who holds a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, such person shall notify his employer in writing of the conviction within thirty (30) days of the date of conviction.

(3) Each employee whose class A, B or C driver's license is suspended, revoked, denied, refused or canceled by this state or who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his employer of that fact before the end of the business day following the day the employee received notice of that fact.

(4) Each person who applies for employment as an operator of a commercial motor vehicle with an employer shall provide notification to the employer, at the time of application, of his previous employment as an operator of a commercial motor vehicle. The period of previous employment of which notification must be given shall be the ten (10) year period ending on the date of application for employment.

(5) No employer shall knowingly allow, permit, require or authorize an employee to operate a commercial motor vehicle in the United States during any period:

(a) In which the employee has a driver's license suspended, revoked or canceled by a state, has lost the privilege to operate a commercial motor vehicle in a state or has been disqualified from operating a commercial motor vehicle; or

(b) In which the employee has more than one (1) driver's license; or

(c) In which the employee, or the motor vehicle being driven, or the motor carrier operation, is subject to an out-of-service order.

(6) An employer who is convicted of a violation of subsection (5)(c) of this section shall be subject to a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) nor more than twenty-five thousand dollars (\$25,000).

(7) No employer shall knowingly allow, permit, require or authorize an employee to operate a commercial motor vehicle in the United States in violation of any federal, state or local law or federal regulation pertaining to railroad grade crossings. An employer who is convicted of a violation of this subsection (7) shall, in addition to the general penalties provided for in this title, be subject to a civil penalty of not more than ten thousand dollars (\$10,000).

(8) Each employer shall require the information specified in subsection (4) of this section to be provided by the employee.

History.

I.C., § 49-337, as added by 1989, ch. 88, § 45, p. 151; am. 1996, ch. 371, § 15, p. 1246; am. 1999, ch. 81, § 16, p. 237; am. 2002, ch. 181, § 2, p. 527; am. 2006, ch. 164, § 9, p. 489; am. 2009, ch. 155, § 2, p. 453.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 155, in subsections (1) and (2), substituted "Any operator of a commercial motor vehicle or any person who holds" for "Any operator of a commercial

motor vehicle holding"; and, in subsection (6), substituted "twenty-five thousand dollars (\$25,000)" for "eleven thousand dollars (\$11,000)."

CHAPTER 4

MOTOR VEHICLE REGISTRATION

SECTION.

49-401B. Application for registration — Receipt for fee — Record of applicants.

SECTION.

49-402. Annual registration.
49-402D. Special license plate prequalification process.

SECTION.	SECTION.
49-403B. Gold star — License plates.	49-420K. Idaho aviation foundation plates.
49-411. Dealer and manufacturer plate — Fees.	49-420L. Idaho territory sesquicentennial plates.
49-415G. Idaho north America plate — Special permanent or business logo.	49-426. Exemptions from operating fees.
49-416C. Innovation plates.	49-428. Display of plate and stickers.
49-417B. Idaho agriculture plates.	49-432. Temporary registration for residents and nonresidents — Fees.
49-418. Veterans plates.	49-434. Operating fees.
49-419E. Idaho mountain biking plates.	49-451. Vehicle license cost recovery fee — Limitations.
49-420H. Idaho freemason plates.	49-454. Project choice fee.
49-420I. Earth sciences and lapidary plates.	49-456. Violations of registration provisions.
49-420J. Selway-Bitterroot wilderness plates.	

49-401B. Application for registration — Receipt for fee — Record of applicants. — (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-401A, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall contain the owner's Idaho driver's license number, Idaho identification card number, or social security number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. Such application must be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, and the identification number. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her residence address. Upon registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department and shall contain a provision that allows an owner to choose to participate in the Idaho state parks passport program. The assessor shall issue to the applicant a receipt for any fee paid. Social security numbers collected shall not appear on certificates of registration, and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for registration, together with the amounts of the fees paid by such owners.

(3) When application for registration is made by any motor carrier, the assessor or the department shall require each such applicant to execute a certification of safety compliance.

(4) Vehicles registered under the proportional registration provisions of section 49-435, Idaho Code, shall be registered by the department.

(5) Every owner of a vehicle registered by a county assessor shall give his physical domicile residence address or the business' physical principal address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of sections 40-827 and 40-1416, Idaho Code, shall be separately identified and accounted for, and paid to the highway district for which collected. Fees collected in addition to vehicle registration fees for the Idaho state parks passport program, as provided in section 49-402(11), Idaho Code, shall be separately identified and accounted for and paid to the state treasurer on a monthly basis to be deposited in the park and recreation fund as specified in section 49-402(11), Idaho Code. For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction.

History.

I.C., § 49-401B, as added by 1992, ch. 35, § 9, p. 99; am. 1998, ch. 392, § 7, p. 1197; am. 1999, ch. 383, § 7, p. 1051; am. 2009, ch. 141, § 1, p. 424; am. 2010, ch. 225, § 5, p. 501; am. 2010, ch. 258, § 1, p. 658; am. 2012, ch. 41, § 1, p. 127.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 141, in subsection (1), rewrote the second sentence, and added the third, fourth, and last sentences; and, in subsection (5), substituted "shall give his physical domicile residence address or the business' physical principal address to the assessor" for "shall give his principal residence or domicile address to the assessor."

The 2010 amendment, by ch. 225, added the seventh sentence in subsection (1).

The 2010 amendment, by ch. 258, added the sixth sentence in subsection (1).

The 2012 amendment, by ch. 41, inserted "and shall contain a provision that allows an owner to choose to participate in the Idaho state parks passport program" at the end of the tenth sentence of subsection (1) and added the fifth sentence in subsection (5).

Effective Dates.

Section 8 of S.L. 2010, ch. 225 provided that the act should take effect on and after January 1, 2011.

Section 3 of S.L. 2010, ch. 258 declared an emergency. Approved April 8, 2010.

JUDICIAL DECISIONS

Cited in: Bradbury v. Idaho Judicial Council, 149 Idaho 107, 233 P.3d 38 (2009).

49-402. Annual registration. — (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand

(8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old	\$48.00
Vehicles three (3) and four (4) years old	\$36.00
Vehicles five (5) and six (6) years old	\$36.00
Vehicles seven (7) and eight (8) years old	\$24.00
Vehicles over eight (8) years old	\$24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars (\$24.00).

(3) For all motorcycles and motor-driven cycles which comply with the federal motor vehicle safety standards, operated upon the public highways the annual fee shall be nine dollars (\$9.00).

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

(5) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

(7) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(8) A wrecker or towing business engaged in the process of towing motorized vehicles, which have been wrecked, abandoned, salvaged or may be disabled, may apply for a wrecker plate to be displayed on those vehicles being towed, provided the power unit is properly registered under this chapter. The registration fees for wrecker plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The wrecker plate shall be issued on an annual basis by the department.

(9) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars (\$25.00) and an annual program fee of fifteen dollars (\$15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars (\$25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-415E, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-417E, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-419E, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E, 49-420G, 49-420H, 49-420I, 49-420J, 49-420K and 49-420L, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

(10) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized.

(11) In addition to annual registration fees as provided in this section, registrants may pay a fee to purchase an Idaho state parks passport

authorizing resident motor vehicle entry into all Idaho state parks. Registrants may pay the fee for a one (1) year or two (2) year period of time. The fee shall be ten dollars (\$10.00) for one (1) year and twenty dollars (\$20.00) for two (2) years. All fees collected pursuant to this subsection shall be deposited into the park and recreation fund and shall be subject to appropriation. Fees collected pursuant to this subsection shall not be considered a motor vehicle registration fee as provided in section 17, article VII, of the constitution of the state of Idaho.

History.

I.C., § 49-126, as added by 1984, ch. 195, § 13, p. 445; am. 1985, ch. 53, § 2, p. 103; am. 1985, ch. 240, § 1, p. 568; am. 1987, ch. 185, § 2, p. 364; am. 1987, ch. 190, § 3, p. 382; am. 1987, ch. 361, § 2, p. 794; am. and redesign. 1988, ch. 265, § 71, p. 549; am. 1989, ch. 310, § 11, p. 769; am. 1989, ch. 318, § 3, p. 826; am. 1990, ch. 391, § 2, p. 1092; am. 1991, ch. 295, § 1, p. 769; am. 1992, ch. 35, § 10, p. 99; am. 1992, ch. 186, § 1, p. 577; am. 1992, ch. 261, § 2, p. 755; am. 1993, ch. 99, § 1, p. 248; am. 1993, ch. 135, § 2, p. 330; am. 1996, ch. 343, § 3, p. 1149; am. 1997, ch. 129, § 1, p. 382; am. 1998, ch. 392, § 8, p. 97; am. 1999, ch. 315, § 1, p. 782; am. 1999, ch. 316, § 2, p. 790; am. 1999, ch. 320, § 5, p. 815; am. 1999, ch. 365, § 1, p. 963; am. 1999, ch. 374, § 1, p. 1021; am. 2000, ch. 50, § 1, p. 95; am. 2000, ch. 193, § 1, p. 476; am. 2000, ch. 200, § 1, p. 491; am. 2000, ch. 315, § 2, p. 1059; am. 2000, ch. 421, § 1, p. 1369; am. 2001, ch. 281, § 1, p. 1010; am. 2002, ch. 226, § 1, p. 651; am. 2002, ch. 254, § 1, p. 730; am. 2002, ch. 285, § 1, p.

829; am. 2003, ch. 16, § 11, p. 48; am. 2003, ch. 43, § 1, p. 164; am. 2003, ch. 45, § 2, p. 171; am. 2003, ch. 242, § 1, p. 624; am. 2004, ch. 78, § 1, p. 300; am. 2004, ch. 81, § 1, p. 306; am. 2004, ch. 301, § 2, p. 841; am. 2005, ch. 70, § 1, p. 244; am. 2005, ch. 102, § 1, p. 321; am. 2005, ch. 154, § 1, p. 481; am. 2005, ch. 183, § 4, p. 558; am. 2006, ch. 41, § 1, p. 119; am. 2006, ch. 118, § 1, p. 331; am. 2006, ch. 119, § 1, p. 334; am. 2006, ch. 176, § 1, p. 541; am. 2007, ch. 256, § 1, p. 760; am. 2008, ch. 150, § 1, p. 436; am. 2008, ch. 193, § 1, p. 605; am. 2008, ch. 198, § 5, p. 640; am. 2008, ch. 210, § 1, p. 664; am. 2008, ch. 409, § 3, p. 1129; am. 2009, ch. 11, § 19, p. 14; am. 2009, ch. 157, § 7, p. 458; am. 2009, ch. 196, § 1, p. 631; am. 2009, ch. 199, § 1, p. 637; am. 2009, ch. 287, § 1, p. 860; am. 2010, ch. 132, § 1, p. 280; am. 2010, ch. 140, § 1, p. 295; am. 2011, ch. 22, § 1, p. 62; am. 2011, ch. 151, § 24, p. 414; am. 2012, ch. 41, § 2, p. 127; am. 2012, ch. 64, § 1, p. 168; am. 2012, ch. 253, § 1, p. 697.

STATUTORY NOTES

Amendments.

This section was amended by five 2009 acts which appear to be compatible and have been compiled together.

The 2009 amendment, by ch. 11, corrected the duplicated subsection (8) designation from 2008.

The 2009 amendment, by ch. 157, in subsection (4), in the first sentence, substituted "on city, county or highway district roads or highways open to such use" for "on public lands" and added the last sentence.

The 2009 amendment, by chs. 196 and 199, inserted "and 49-420H" in the third sentence in subsection (8).

The 2009 amendment, by ch. 287, added subsection (8) and redesignated the subsequent subsections accordingly.

This section was amended by two 2010 acts which appear to be compatible and have been compiled together.

The 2010 amendment, by ch. 132, in the third sentence in subsection (9), inserted "49-419E" and "and 49-420I" and correct the designation of the last paragraph

The 2010 amendment, by ch. 140, inserted "49-420I and 49-420J" in subsection (9) and correct the designation of the last paragraph.

The 2011 amendment, by ch. 22, inserted "49-420K" in subsection (9).

The 2011 amendment, by ch. 151, deleted "and" following "49-420H" in the third sentence in subsection (9).

This section was amended by three 2012 acts which appear to be compatible and have been compiled together.

The 2012 amendment, by ch. 41, added subsection (11).

The 2012 amendment, by ch. 64, inserted "49-420L" in subsection (9).

The 2012 amendment, by ch. 253, inserted "and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D Idaho Code" in subsection (9).

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

Section 3 of S.L. 2009, ch. 196 provided that the act should take effect on and after January 1, 2010.

Section 3 of S.L. 2009, ch. 199 provided that the act should take effect on and after January 1, 2010.

Section 3 of S.L. 2010, ch. 132 provided that the act should take effect on and after January 1, 2011.

Section 3 of S.L. 2010, ch. 140 provided that the act should take effect on and after January 1, 2011.

Section 3 of S.L. 2011, ch. 22 provided that the act should take effect on and after January 1, 2012.

49-402D. Special license plate prequalification process. —

(1) Any special plate consideration shall:

- (a) Submit a financial plan for the use of the proceeds from the special license plate sales; and
- (b) Designate an individual who shall be deemed responsible by the agency for certifying compliance with the requirements of this section and working with the department; and
- (c) If the applicant is a nonprofit agency, submit evidence to the department that the applicant has 501(c)(3) federal income tax status that has been in existence for at least two (2) years.
- (d) The department is authorized and shall adopt and promulgate rules to carry out the provisions of this section.

(2) If the request for a special license plate is approved by the department, the following requirements, in addition to those set out in subsection (1) of this section, shall be met by September 1 prior to the next legislative session.

(a) The applicant shall deposit estimated programming and administrative costs with the department to be utilized for programming costs of the specialty plate. Administrative costs in the amount of one thousand dollars (\$1,000) shall be nonrefundable.

(b) In addition to the requirements provided for in section 49-402C, Idaho Code, the applicant requesting a special license plate program shall provide to the department an acceptable plate design.

(c) The applicant shall transmit to the department a list of two hundred fifty (250) applicants whose vehicles are currently registered in the state of Idaho, who intend to purchase the specialty plate when available, as evidenced by completing forms provided by the department.

(3) The department shall submit the completed applications for special license plate programs that meet the requirements of this section to the chairmen of the senate transportation committee and the house of representatives transportation and defense committee each year on behalf of the agency to be included for consideration in the next legislative session.

(4) On an annual basis, by December 1 of each calendar year, the sponsor of a special license plate program, shall prepare an annual report, which shall be made available on request, and shall be forwarded to the department. Such report shall include an accounting of revenues and expenditures associated with the funds collected for the special license plate program. The department shall compile and forward such reports to the chairmen of the senate transportation committee and the house of representatives transportation and defense committee by January 15 of each year. Failure of the agency to provide such report by the due date shall result in the suspension of the special license plate program sales on January 1 until such report is provided. The provisions of this section shall apply to all special plate

programs generating revenue outside of the department excluding military license plate programs.

(5) Any decision by the department that the special license plate program application does not meet the provisions of this section may be appealed to the director of the department. Such notice of appeal shall be made in writing within twenty (20) days of the notice of denial.

History.

I.C., § 49-402D, as added by 2012, ch. 253,
§ 2, p. 697.

49-403B. Gold star — License plates. — (1) In this section:

(a) "Combat zone" means those locations involving a "period of war" as defined in 38 U.S.C. section 101(11) and such other locations and times as the division of veterans services may define by rule.

(b) "Qualifying cause of death" means a death of a person due to hostile action while serving in the armed forces of the United States on active duty in a combat zone as the division of veterans services may define by rule.

(c) "Qualifying family member" means the surviving spouse, parent, stepparent, child, stepchild, sibling, half-sibling, stepsibling, grandparent or legal guardian of a person who died due to a qualifying cause of death.

(2) Qualifying family members are eligible to apply for gold star license plates. As proof of eligibility, the applicant shall furnish to the department a statement from the division of veterans services certifying eligibility.

(3) The division of veterans services shall establish by rule the requirements for receipt of a certificate of eligibility including proof of qualifying familial relationship to the deceased service member and the death of the service member due to a qualifying cause of death.

(4) No special plate program fee shall be charged in addition to regular registration or renewal of registration of a motor vehicle owned by the spouse, parent or stepparent of a service member who was killed during active military service in a combat zone and receiving gold star license plates.

(5) A qualifying family member who is not the spouse, parent or stepparent shall be charged the regular registration fee and plate fee required in section 49-450, Idaho Code, and an additional fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this gold star license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited in the veterans support fund, section 65-209, Idaho Code, and shall be used to defray the costs of administration of the eligibility certification program and to provide programs to support veterans.

(6) Gold star license plates shall be used only on a motor vehicle owned by the qualifying family member.

(7) Whenever title or interest in a motor vehicle registered under this section is transferred or assigned, the registration shall expire, but the

qualifying family member may transfer the gold star license plates to another motor vehicle upon payment of the required transfer fees. The qualifying family member may only display the gold star license plates after receipt of new registration from the department.

(8) A qualifying family member shall not register more than two (2) motor vehicles under this section. This section shall not apply to any motor vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds, nor to any vehicle registered under section 49-434(5), Idaho Code.

(9) Gold star license plates may be retained and displayed on motor vehicles owned by the surviving spouse of a qualifying family member. In addition, the surviving spouse is eligible to reapply for and shall be issued gold star license plates if the deceased qualifying family member died on or after January 1 of the five (5) years preceding the date of reapplication for the gold star license plates. Such plates shall be used only on a motor vehicle owned by the surviving spouse of the qualifying family member.

(10) The gold star license plates shall be of a color and design acceptable to the veterans affairs commission and approved by the department, utilizing a numbering system as determined by the department. Gold star license plates shall not be subject to discontinuance pursuant to section 49-402C(6), Idaho Code.

History.

I.C., § 49-403B, as added by 2009, ch. 213, § 1, p. 672.

49-411. Dealer and manufacturer plate — Fees. — (1) Any person conducting the business of manufacturing, buying, selling or dealing in vehicles, and licensed as a manufacturer of or a dealer in vehicles, and owning and operating any such vehicle upon any highway may, in lieu of registering each vehicle, obtain from the department upon application on the proper form and payment of the required fee, and attach to each vehicle, one (1) number plate as required for different classes of vehicles in section 49-434, Idaho Code. The special number plate shall bear a distinctive number assigned to the manufacturer or dealer, the name of this state, which may be abbreviated, and the year for which the plate is issued, together with words which may be abbreviated or a distinguishing symbol indicating that the plate is issued to a manufacturer or dealer.

(a) Dealer license plates shall be limited to two (2) license plates for up to twenty (20) vehicles sold during the previous dealer licensing period and one (1) license plate for each ten (10) additional vehicles sold during the previous dealer licensing period. Any new dealer who applies for a dealer license shall be eligible for the number of dealer plates requested based on the number of vehicles that the dealer estimates he will sell during the first year of licensure.

(b) Upon renewal of a dealer's license, the department may audit vehicle sales from previous years to determine the number of dealer plates that will be authorized for the current dealer licensing period.

(2) The fee to validate a dealer or manufacturer number plate shall be twelve dollars (\$12.00) for each validation sticker.

(3) All such fees shall be paid to the state treasurer and deposited to the state highway account.

(4) Laden dealer or manufacturer plates shall be available to licensed dealers and manufacturers operating vehicles with laden loads in furtherance of their business pursuant to section 49-1627(5), Idaho Code. Such plates shall be exempt from the limit provisions of subsection (1)(a) of this section. The operating fee for a laden dealer or manufacturer plate will be equal to the fees for commercial vehicles pursuant to section 49-434(1), Idaho Code, for twenty-six thousand (26,000) pounds. Laden dealer and manufacturer plates are limited to a maximum combined gross vehicle weight of twenty-six thousand (26,000) pounds. Temporary weight increase permits may be purchased pursuant to section 49-432(2), Idaho Code.

History.

I.C., § 49-411, as added by 1988, ch. 265, § 80, p. 549; am. 1994, ch. 246, § 1, p. 766; am. 1998, ch. 156, § 1, p. 533; am. 2001, ch. 73, § 5, p. 154; am. 2003, ch. 125, § 1, p. 375; am. 2011, ch. 72, § 1, p. 152.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 72, added subsection (4).

49-415G. Idaho north America plate — Special permanent or business logo. — (1) Any person or business who is the owner of a trailer or semitrailer registered under the provisions of subsection (4)(a) of section 49-434, Idaho Code, may apply for and, upon department approval, may receive a special permanent or business logo license plate of the owner's company.

(2) In addition to the registration fee required in section 49-434(4)(a), Idaho Code, an applicant for a business logo plate shall pay the estimated initial programming costs, which fees shall be deposited in the state highway account. The business logo plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code, and acceptable to the owner or business and shall be approved by the department and utilize a numbering system as determined by the department.

(3) Whenever title or interest in a trailer or semitrailer registered under the provisions of this section is transferred or reassigned, the plates issued pursuant to subsection (4)(a) of section 49-434, Idaho Code, are nontransferable and the registration fee is nonrefundable.

(4) The north America permanent trailer plate program shall be subject to the provisions of section 49-402C, Idaho Code.

(5) Any specific business logo plate program created under this section shall be discontinued if no plates are issued under the program for two (2) consecutive years after the year of implementation.

(6) Sample special permanent or business logo license plates may be purchased for a fee of thirty dollars (\$30.00), which shall be placed in the state highway account.

History.

I.C., § 49-415G, as added by 2009, ch. 330, § 1, p. 942.

49-416C. Innovation plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special innovation license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of innovation license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho innovation fund created in section 67-4725, Idaho Code, and shall be used by the commercial innovation division of the department of commerce for attracting innovation companies to locate or to expand their operations in Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The innovation license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the director of the department of commerce and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the department of commerce.

(5) Sample innovation license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho innovation fund, and shall be used by the commercial innovation division for attracting innovation companies to locate or to expand their operations in Idaho.

History.

I.C., § 49-416C, as added by 2005, ch. 102, § 2, p. 321; am. 2006, ch. 16, § 6, p. 42; am.

2007, ch. 360, § 14, p. 1061; am. 2009, ch. 162, § 1, p. 487.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 162, throughout the section, substituted "innovation" for "science and technology"; and, in the last

sentence in subsection (2) and in subsection (5), substituted "Idaho innovation fund" for "office of science and technology fund."

49-417B. Idaho agriculture plates. — (1) On and after January 1, 2000, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for Idaho agriculture plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho agriculture plates for other vehicles may be authorized by rule of the board.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of the administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by warrant on a monthly basis by the Idaho transportation department to Idaho ag in the classroom created by the provisions of section 57-815, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates after receipt of new registration from the department.

(4) The Idaho agriculture license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features Idaho agriculture shall be acceptable to the Food Producers of Idaho, Inc. and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid from the ag in the classroom account.

(5) Sample Idaho agriculture plates may be purchased from the department for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred by warrant on a monthly basis by the Idaho transportation department to Idaho ag in the classroom.

History.

I.C., § 49-417B, as added by 1999, ch. 374, § 2, p. 1021; am. 2000, ch. 87, § 19, p. 188;

am. 2000, ch. 200, § 2, p. 491; am. 2001, ch. 73, § 7, p. 154; am. 2009, ch. 114, § 1, p. 368.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 114, in the last sentence in subsection (2) and in subsec-

tion (5), substituted "shall be transferred by warrant on a monthly basis by the Idaho transportation department to Idaho ag in the

classroom" for "shall be transferred by the state treasurer to the ag in the classroom account" and "shall be transferred to the ag in the classroom account," respectively.

Effective Dates.

Section 3 of S.L. 2009, ch. 114 declared an emergency. Approved April 8, 2009.

49-418. Veterans plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for and upon department approval receive special veterans license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of veterans plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) Proof of being a current or former member of the United States armed forces must be furnished to the department before special veterans plates will be issued. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs.

(3) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee of twenty-five dollars (\$25.00) and the annual program fee of fifteen dollars (\$15.00) as specified in section 49-402, Idaho Code, and the plate fee specified in section 49-450, Idaho Code. Ten dollars (\$10.00) of the initial program fee and ten dollars (\$10.00) of the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Fifteen dollars (\$15.00) of the initial program fee and five dollars (\$5.00) of the annual program fee shall be deposited to the veterans cemetery maintenance fund created in section 65-107, Idaho Code, and shall be used to operate and maintain a state veterans cemetery.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) The veterans license plate design shall include the colors red, white and blue, shall designate one (1) of the five (5) branches of military service, and display either:

- (a) The word "VETERAN";
- (b) The name of a conflict or war period recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as defined in 38 U.S.C. 101(11); or
- (c) For a current or former member of the United States armed forces who has served in Afghanistan or Iraq during the post 9/11 global operations period, as defined in 38 U.S.C. section 4110A(c), the name of the post 9/11 global operations theater.

The license plate design shall comply with all applicable rules of the department, and shall include a separate and distinct numbering system. The design, color, and numbering system shall be subject to approval of the department.

(6) Veterans license plates may be retained and displayed on vehicles owned by the surviving spouse of a qualified veteran. In addition, the surviving spouse of a deceased qualified veteran is eligible to reapply for and shall be issued veterans license plates if the deceased qualified veteran died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse.

History.

I.C. § 49-418, as added by 1996, ch. 413, § 1, p. 1375; am. 1998, ch. 113, § 15, p. 418; am. 1999, ch. 316, § 9, p. 790; am. 2000, ch. 37, § 5, p. 66; am. 2000, ch. 87, § 20, p. 188; am. 2000, ch. 464, § 1, p. 1437; am. 2011, ch. 66, § 1, p. 141.

STATUTORY NOTES**Amendments.**

The 2011 amendment, by ch. 66, added paragraph (5)(c).

49-419E. Idaho mountain biking plates. — (1) On and after January 1, 2011, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval, receive special Idaho mountain biking license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho mountain biking license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be deposited by the state treasurer in a dedicated fund in the department of parks and recreation or any successor state agency or department thereto which fund shall be used by any such agency or department exclusively for the preservation, maintenance and expansion of recreational trails within the state of Idaho and on which mountain biking is permitted.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of a new registration from the department.

(4) The Idaho mountain biking license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The

design and any slogan on the plate shall be acceptable to the department of parks and recreation or any successor agency or department thereto, and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho mountain bike trail preservation association.

(5) Sample Idaho mountain biking license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be deposited in a dedicated fund within the department of parks and recreation or any successor state agency or department thereto and which fund shall be used by any such agency or department exclusively for the preservation, maintenance and expansion of recreational trails within the state of Idaho and on which mountain biking is permitted.

History.

I.C., § 49-419E, as added by 2010, ch. 132, § 2, p. 280.

STATUTORY NOTES**Effective Dates.**

Section 3 of S.L. 2010, ch. 132 provided that

the act should take effect on and after January 1, 2011.

49-420H. Idaho freemason plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho freemason license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of freemason plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be deposited by the department to the Grand Lodge of Idaho Charitable Fund and shall be used by the Grand Lodge of Idaho exclusively for the purpose of supporting charitable activities with which the freemasons are involved and for any other purpose deemed worthy of funding by the Grand Lodge of Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The license plate design shall be acceptable to the Grand Lodge of Idaho and shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Grand Lodge of Idaho.

(5) Sample Idaho freemason license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred to the Grand Lodge of Idaho.

History.

I.C., § 49-420H, as added by 2009, ch. 199, § 2, p. 637.

STATUTORY NOTES**Compiler's Notes.**

Section 2 of S.L. 2009, ch. 199 and section 2 of S.L. 2009, ch. 196, each, enacted a § 49-420H. The provisions enacted by section 2 of S.L. 2009, ch. 196 have been redesignated as § 49-420I by the compiler. The redesignation was made permanent by S.L. 2010, ch. 79, § 17.

Effective Dates.

Section 3 of S.L. 2009, ch. 199 provided that the act should take effect on and after January 1, 2010.

49-420I. Earth sciences and lapidary plates. — (1) On and after January 1, 2010, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive earth sciences and lapidary license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of earth sciences and lapidary license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho gem club, an Idaho nonprofit organization, and shall be used to provide classes for kindergarten through grade 6 to promote understanding about earth sciences and lapidary.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The earth sciences and lapidary license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the Idaho gem club and shall be approved by the transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho gem club.

(5) Sample earth sciences and lapidary license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred for deposit to the Idaho gem club, and shall be used to provide classes for kindergarten through grade 6 to promote understanding about the earth sciences and lapidary.

History.

I.C., § 49-420H, as added by 2009, ch. 196, § 2, p. 631; am. 2010, ch. 79, § 17, p. 133.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 79, redesignated the section to correct duplicate designations from 2009 legislation.

S.L. 2009, ch. 196 have been redesignated as § 49-420I by the compiler. The redesignation was made permanent by S.L. 2010, ch. 79, § 17.

Compiler's Notes.

Section 2 of S.L. 2009, ch. 199 and section 2 of S.L. 2009, ch. 196, each, enacted a § 49-420H. The provisions enacted by section 2 of

Effective Dates.

Section 3 of S.L. 2009, ch. 196 provided that the act should take effect on and after January 1, 2010.

49-420J. Selway-Bitterroot wilderness plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho Selway-Bitterroot wilderness license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Selway-Bitterroot wilderness plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be transferred by the state treasurer to the Selway-Bitterroot Foundation, and shall be used by the foundation for the purpose of assisting in the stewardship of the Idaho Selway-Bitterroot wilderness and surrounding wildlands of north central Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special

plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The license plate design shall be acceptable to the Selway-Bitterroot Foundation and shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Selway-Bitterroot Foundation.

(5) Sample Idaho Selway-Bitterroot wilderness license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred to the Selway-Bitterroot Foundation.

History.

I.C., § 49-420J, as added by 2010, ch. 140,
§ 2, p. 295.

STATUTORY NOTES

Effective Dates.

Section 3 of S.L. 2010, ch. 140 provided that

the act should take effect on and after January 1, 2011.

49-420K. Idaho aviation foundation plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho aviation foundation license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho aviation foundation plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be transferred by the state treasurer to the Idaho aviation foundation and shall be used by the foundation for grants relating to the maintenance, upgrade and development of airstrips and for improving access and promoting safety at backcountry and recreational airports in Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may display the plates on another vehicle only upon receipt of the new registration from the department.

(4) The license plate design shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the Idaho aviation foundation and

shall be approved by the department and shall use a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho aviation foundation.

(5) Sample Idaho aviation foundation license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred to the Idaho aviation foundation.

History.

I.C., § 49-420K, as added by 2011, ch. 22,
§ 2, p. 62.

STATUTORY NOTES

Effective Dates.

Section 3 of S.L. 2011, ch. 22 provided that

the act should take effect on and after January 1, 2012.

49-420L. Idaho territory sesquicentennial plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho territory sesquicentennial license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho territory sesquicentennial plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be deposited by the department to the respective county historical society or designated entity in which the vehicle is registered and shall be used by such county historical society or designated entity to fund projects related to the Idaho territory sesquicentennial or to fund other projects that protect and preserve the heritage and cultural resources of the county.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may display the plates on another vehicle only upon receipt of the new registration from the department.

(4) The license plate design shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be approved by the department and shall use a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Lewiston historic preservation commission.

(5) Sample Idaho territory sesquicentennial license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred to the county historical society where the vehicle is registered.

History.

I.C., § 49-420L, as added by 2012, ch. 64, § 2, p. 168.

49-426. Exemptions from operating fees. — The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, any state registered nonprofit subscription fire protection unit, or any organization, whether incorporated or unincorporated, organized for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

(2) Farm tractors, implements of husbandry, those manufactured homes which qualify for an exemption under the provisions of section 49-422, Idaho Code, road rollers, wheel mounted tar buckets, portable concrete and/or mortar mixers, wheel mounted compressors, tow dollies, portable toilet trailers, street sweepers, other construction equipment, forestry equipment, lawn and grounds equipment and similar devices as determined by the department which are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, three-wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles need not be licensed under the provisions of this chapter or registered pursuant to the provisions of section 67-7122, Idaho Code, if they are being used exclusively in connection with agricultural, horticultural, dairy and livestock growing and feeding operations or used exclusively for snow removal purposes. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles used for this purpose shall meet the emblem requirements of section 49-619, Idaho Code.

(3) Any political subdivision of the state of Idaho may, but only after sufficient public notice is given and a public hearing held, adopt local ordinances or resolutions designating highways or sections of highways under its jurisdiction which are closed to all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes licensed pursuant to this chapter and registered pursuant to section 67-7122, Idaho Code. The

operation of licensed and registered all-terrain vehicles, utility type vehicles and motorbikes and those vehicles exempt from licensing and registration pursuant to subsection (2) of this section shall not be permitted on controlled access highways. The requirements of title 18 and chapters 2, 3, 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of any all-terrain vehicle, utility type vehicle or motorbike upon highways. Costs related to the posting of signs on highways or sections of highways that are closed to such vehicles, indicating the ordinance, are eligible for reimbursement through the motorbike recreation account created in section 67-7126, Idaho Code.

(4) The Idaho transportation board may designate sections of state highways over which all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes may cross. The requirements of title 18, and chapters 2, 3, 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes when using designated crossings on state highways.

(5) All-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes may be used on highways located on state lands or federal lands which are not part of the highway system of the state of Idaho, provided the registration requirements of section 67-7122, Idaho Code, are met.

History.

1927, ch. 244, §§ 8, 27, p. 374; I.C.A., § 48-108; I.C.A., § 48-129; am. 1951, ch. 119, § 13, p. 273; am. 1955, ch. 186, § 1, p. 408; am. 1961, ch. 115, § 1, p. 172; am. 1974, ch. 27, § 98, p. 811; am. 1974, ch. 203, § 1, p. 1523; am. 1977, ch. 66, § 1, p. 126; am. 1982, ch. 79, § 1, p. 147; am. 1982, ch. 95, § 14, p. 185; am. 1983, ch. 255, § 2, p. 674; am. 1987, ch. 194, § 1, p. 404; am. 1988, ch. 105, § 1, p. 193; am.

and redesig. 1988, ch. 265, § 88, p. 549; am. 1989, ch. 310, § 16, p. 769; am. 1992, ch. 35, § 17, p. 99; am. 1992, ch. 238, § 2, p. 707; am. 1992, ch. 268, § 2, p. 829; am. 1998, ch. 104, § 1, p. 361; am. 1998, ch. 272, § 1, p. 902; am. 1999, ch. 170, § 2, p. 459; am. 2000, ch. 315, § 3, p. 1059; am. 2005, ch. 70, § 2, p. 244; am. 2008, ch. 409, § 4, p. 1130; am. 2009, ch. 157, § 8, p. 458; am. 2012, ch. 86, § 1, p. 243.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 157, rewrote subsections (3) through (5) to the extent that a detailed comparison is impracticable.

The 2012 amendment, by ch. 86, inserted "other construction equipment, forestry

equipment, lawn and grounds equipment" in the first sentence in subsection (2).

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

JUDICIAL DECISIONS

Bankruptcy.

This section provides for an exemption from the license and registration requirements for ATVs used exclusively for agricultural, ranch

and snow removal operations, but was of no use to Chapter 7 debtors claiming to exempt their ATV as a motor vehicle. *In re Bosworth*, 449 B.R. 104 (Bankr. D. Idaho 2011).

49-428. Display of plate and stickers. — (1) License plates assigned to a motor vehicle shall be attached, one (1) in the front and the other in the rear, with the exception of the following:

- (a) The license plate assigned to a motorcycle, all-terrain vehicle, utility type vehicle, motorbike or semitrailer and the license plate assigned to a motor vehicle operated by a manufacturer, repossession agent or dealer shall be attached to the rear.
- (b) Vehicles displaying year of manufacture, old timer, classic car or street rod license plates shall be allowed to display one (1) plate attached to the rear of the vehicle.
- (c) The license plate attached to a tractor shall be attached to the front.
- (d) The wrecker plate shall be displayed on the vehicle being towed in such a manner as to be visible when the vehicle being towed is approached from the rear.

License plates shall be displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each license plate, except for trailers and semitrailers on extended registration under the provisions of section 49-434, Idaho Code. For the purposes of this title, the license plates together with the registration stickers shall be considered as license plates for the year designated on the registration sticker.

(2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(4), Idaho Code.

History.

1927, ch. 244, § 14, p. 374; I.C.A., § 48-114; am. 1957, ch. 7, § 1, p. 9; am. 1963, ch. 53, § 1, p. 218; am. 1967, ch. 428, § 3, p. 1245; am. and redesign. 1988, ch. 265, § 90, p. 549; am. 1990, ch. 391, § 3, p. 1092; am. 1992, ch. 35, § 18, p. 99; am. 1998, ch. 392, § 9, p. 1197; am. 2008, ch. 409, § 5, p. 1132; am. 2009, ch. 287, § 2, p. 860.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 287, added subsection (1)(d).

JUDICIAL DECISIONS

Constitutionality.

Where a trooper stopped defendant's vehicle due to the improper display of his license plate, which was fastened with one bolt and hung at a 30-degree angle, defendant's argument that this section was vague as applied to him failed; the plain and obvious meaning of the statutory requirement that a plate be securely fastened to the vehicle to prevent the

plate from swinging clearly provided notice to the driver that fastening a license plate in a manner that did not prevent it from swinging violated the statute. *State v. Martin*, 148 Idaho 31, 218 P.3d 10 (Ct. App. 2009).

Cited in: *State v. Horton*, 150 Idaho 300, 246 P.3d 673 (Ct. App. 2010).

49-432. Temporary registration for residents and nonresidents

— **Fees.** — (1) When a vehicle or combination of vehicles subject to registration is to be moved upon the public highways in the state of Idaho,

the department may issue a permit in lieu of registration for any vehicle or combination of vehicles upon the payment of a fee as set forth in the following schedule:

(a) One hundred twenty (120) hour permit

Single vehicle \$60.00

Combination of vehicles, where such combination of vehicles includes more than one (1) unregistered vehicle \$120.00

(b) Fuel permit \$60.00

(c) Thirty (30) day unladen weight permit \$60.00

An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee shall be eligible for a thirty (30) day unladen weight permit for the unladen movement from the point of entry into the state to the destination of the new lessee's place of business.

If an annual registration is purchased within thirty (30) calendar days of issuance of a permit under paragraph (a) or (c) of this subsection (1), the amount of the permit fee shall be applied to the registration fee. No portion of a permit fee is subject to refund.

(2) Permits to operate a vehicle or combination of vehicles in excess of the registered maximum gross vehicle weight up to a maximum of one hundred twenty-nine thousand (129,000) pounds gross vehicle weight shall be:

(a) One hundred twenty (120) hour permit to increase gross weight

..... \$50.00

(b) Thirty (30) day permit to increase gross vehicle weight:

Maximum Registered Gross Weight of Vehicle (Pounds)	Temporary Permitted Maximum Gross Weight (Pounds)
80,000 86,000 96,000 106,000 116,000 129,000	
50,001-60,000	\$225 \$250 \$275 \$300 \$325 \$350

The permit issued pursuant to this subsection (2) shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable. At the time of purchasing a permit, the applicant may purchase additional permits in any combination which does not exceed a maximum of ninety (90) days.

(3) Permits issued pursuant to subsection (1) or (2) of this section shall be limited to three (3) per vehicle in a calendar year except for those permits provided for in subsection (1)(b) and (c). The provisions of this subsection (3) with respect to limiting the number of permits issued shall not apply to transporters and wreckers as defined in sections 49-121 and 49-124, Idaho Code, or to laden dealer and manufacturer plates as provided for in sections 49-411(4) and 49-1627(5), Idaho Code.

(4) A temporary permit shall be in a form, and issued under rules adopted by the board, and shall be displayed at all times while the vehicle is being operated on the highways by posting the permit upon the windshield of each vehicle or in another prominent place, where it may be readily legible.

(5) Any permit issued pursuant to subsection (2) of this section shall be purchased prior to movement of the vehicle on a highway, and such permit shall be in addition to and available only to a vehicle which is currently and validly registered in Idaho pursuant to section 49-432(1), 49-434(1), 49-434(8)(c) or 49-435, Idaho Code.

(6) The department may select vendors to serve as agents on state highways for the purpose of selling permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of three dollars (\$3.00) per permit sold, and he shall collect the fees specified in this section and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state in a sum as shall be fixed by the board, the premium on the bond to be paid by the department.

History.

1927, ch. 244, § 19, p. 374; am. 1929, ch. 195, § 4, p. 362; I.C.A., § 48-120; am. 1933, ch. 126, § 1, p. 195; am. 1937, ch. 120, § 1, p. 179; am. 1939, ch. 66, § 1, p. 116; am. 1950 (E.S.), ch. 81, § 1, p. 108; am. 1951, ch. 119, § 7, p. 273; am. 1953, ch. 261, § 8, p. 425; am. 1955, ch. 137, § 1, p. 277; am. 1957, ch. 19, § 1, p. 23; am. 1963, ch. 421, § 1, p. 1095; am. 1974, ch. 27, § 93, p. 811; am. 1976, ch. 99, § 1, p. 420; am. 1980, ch. 284, § 1, p. 753; am.

1981, ch. 12, § 1, p. 21; am. 1982, ch. 95, § 8, p. 185; am. 1984, ch. 87, § 15, p. 169; am. 1984, ch. 195, § 11, p. 445; am. and redesign. 1988, ch. 265, § 94, p. 549; am. 1998, ch. 265, § 1, p. 875; am. 2001, ch. 176, § 1, p. 599; am. 2001, ch. 355, § 2, p. 1242; am. 2003, ch. 315, § 1, p. 859; am. 2006, ch. 58, § 1, p. 182; am. 2008, ch. 336, § 1, p. 924; am. 2009, ch. 336, § 1, p. 973; am. 2010, ch. 330, § 1, p. 876; am. 2011, ch. 72, § 2, p. 152.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 336, added subsection (3) and redesignated the subsequent subsections accordingly.

The 2010 amendment, by ch. 330, inserted "where such combination of vehicles includes more than one (1) unregistered vehicles" in paragraph (1)(a).

The 2011 amendment, by ch. 72, added "or to laden dealer and manufacturer plates as provided for in sections 49-411(4) and 49-1627(5), Idaho Code" at the end of subsection (3).

49-434. Operating fees. — (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

Unladen Weight for Wreckers Maximum Gross Weight For Other Vehicles (Pounds)	Annual Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles and Wreckers
8,001-16,000 inc.	\$ 48.00	\$ 48.00
16,001-26,000 inc.	61.08	143.40
26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.60
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of

sixty thousand (60,000) pounds, an annual registration fee in the amount prescribed by subsection (8) of this section, as applicable.

(3) In addition, the annual registration fee for trailers shall be:

- (a) Trailer or semitrailer in a combination of vehicles \$15.00
- (b) Rental utility trailer with a gross weight of two thousand (2,000) pounds or less \$8.00
- (c) Rental utility trailer with a gross weight over two thousand (2,000) pounds \$15.00

(4) As an option to the trailer and semitrailer and rental utility trailer annual registrations issued pursuant to subsection (3) of this section, the department may provide a nonexpiring plate and registration for trailers and semitrailers, and an optional, extended registration for rental utility trailers.

(a) For trailers and semitrailers, the nonexpiring registration fee shall be one hundred five dollars (\$105). The license plate shall remain on the trailer or semitrailer until the registration is canceled or revoked. No part of the fee is subject to refund. However, the registrant may transfer the nonexpiring plate and registration to another trailer or semitrailer titled to the registrant if the original registration date is prior to July 1, 2009. The registration document shall be the official record of the status of the nonexpiring registration and no registration fee shall be required after the initial registration is paid. No validation sticker shall be required or issued for such nonexpiring license plate.

(i) Registration of a trailer or semitrailer based in another jurisdiction may be issued when the registrant provides a valid jurisdiction title or ownership document and certification statement, and no title transfer will be required.

(ii) Periodic verification will be made to confirm ownership status. Failure of the owner to comply with the verification request to confirm ownership within thirty (30) days, shall result in cancellation of the permanent plate registration.

(b) For rental utility trailers, the registrant may prepay the annual registration for an additional one (1), two (2), three (3) or four (4) years, but in no event shall the optional registration period extend beyond five (5) years. The fee shall be as specified in subsection (3)(b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed plate shall be returned to the department if it is not entered on the renewal application.

(5) A fleet registration option is available to owners who have twenty-five (25) or more commercial or farm vehicles or any combination thereof. Such owners may register all of their company vehicles with the department in lieu of registering with a county assessor. To qualify the fleet must be owned and operated under the unified control of one (1) person and the vehicles must be physically garaged and maintained in two (2) or more counties.

Fleet registration shall not include fleets of rental vehicles. The department shall provide a registration application to the owner and the owner shall provide all information that the department determines is necessary. The department shall devise a special license plate numbering system for fleet-registered vehicles as an alternative to county license plates. The fleet registration application and all subsequent registration renewals shall include the physical address where a vehicle is principally used, garaged and maintained. The fleet owner shall report the physical address to the department upon initial registration, on each renewal, and at any time a vehicle registered under this option is permanently transferred to another location.

(6) If the ownership of a vehicle changes during the registration period, the original owner may transfer the plate to another vehicle. The remaining fee shall be credited against the cost of the new registration. Refunds may be given for any unexpired portion of the vehicle registration fee if the plate is not transferred by the owner to another vehicle. Any request for refund shall include surrender of the license plate, validation sticker and registration document. Owners of vehicles registered under the international registration plan may request a refund of the unexpired portion of the Idaho vehicle registration fee by presenting evidence from the base jurisdiction that the license plate, validation sticker and registration document have been surrendered. A license plate shall not be transferred to another owner when the ownership of a vehicle changes. The owner shall obtain a replacement plate, validation sticker if required, and a registration document when a plate is lost, destroyed or becomes illegible.

(7) An administrative fee of four dollars (\$4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under subsection (1) or (8)(a) of this section. Vehicles registered under subsection (8)(b) of this section shall pay the fee provided in section 49-435(2), Idaho Code.

(8) There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a registration fee based upon the maximum gross weight of a vehicle as declared by the owner and the total number of miles driven on roads and highways in the state, county, city and highway district systems in Idaho, and if registered under the international registration plan (IRP), in all other jurisdictions. The appropriate registration fee shall be determined as follows:

(a) If the owner registers vehicles under the international registration plan (IRP), the appropriate mileage column shall be determined by the total miles an owner operated a fleet of vehicles on roads and highways in the state, county, city and highway district systems in Idaho and in all other jurisdictions in the preceding year, as defined in section 49-117, Idaho Code, and by the maximum gross weight of each vehicle within a fleet.

(b) If the owner registers vehicles under the international registration plan and determines that the average international registration plan fleet miles, calculated by dividing the total IRP fleet miles in all jurisdictions

by the number of registered vehicles, is less than fifty thousand one (50,001) miles, the owner may apply to the department for refund of a portion of the registration fees paid, consistent with the fee schedules set forth in this section. The department shall provide an application for the refund. An owner making application for refund under this section shall be subject to auditing as provided in section 49-439, Idaho Code.

(c) If the owner is not registering vehicles under the international registration plan, the appropriate mileage column shall be determined by the total miles the owner operated each of the vehicles to be registered on roads and highways in the state, county, city and highway district systems in Idaho in the preceding year and by the maximum gross weight of each vehicle.

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
	1 to 7,500	7,501 to 20,000	20,001 to 35,000	35,001 to 50,000	Over 50,000
60,001-62,000	\$223	\$ 511	\$ 789	\$1,068	\$1,560
62,001-64,000	\$251	\$ 576	\$ 890	\$1,205	\$1,760
64,001-66,000	\$280	\$ 642	\$ 992	\$1,342	\$1,960
66,001-68,000	\$309	\$ 707	\$1,093	\$1,479	\$2,160
68,001-70,000	\$337	\$ 773	\$1,194	\$1,615	\$2,360
70,001-72,000	\$366	\$ 838	\$1,295	\$1,752	\$2,560
72,001-74,000	\$394	\$ 904	\$1,396	\$1,889	\$2,760
74,001-76,000	\$423	\$ 969	\$1,498	\$2,026	\$2,960
76,001-78,000	\$451	\$1,035	\$1,599	\$2,163	\$3,160
78,001-80,000	\$480	\$1,100	\$1,700	\$2,300	\$3,360
80,001-82,000	\$494	\$1,133	\$1,751	\$2,368	\$3,460
82,001-84,000	\$509	\$1,165	\$1,801	\$2,437	\$3,560
84,001-86,000	\$523	\$1,198	\$1,852	\$2,505	\$3,660
86,001-88,000	\$537	\$1,231	\$1,902	\$2,574	\$3,760
88,001-90,000	\$551	\$1,264	\$1,953	\$2,642	\$3,860
90,001-92,000	\$566	\$1,296	\$2,004	\$2,711	\$3,960
92,001-94,000	\$580	\$1,329	\$2,054	\$2,779	\$4,060
94,001-96,000	\$594	\$1,362	\$2,105	\$2,848	\$4,160
96,001-98,000	\$609	\$1,395	\$2,155	\$2,916	\$4,260
98,001-100,000	\$623	\$1,427	\$2,206	\$2,985	\$4,360
100,001-102,000	\$637	\$1,460	\$2,257	\$3,053	\$4,460
102,001-104,000	\$651	\$1,493	\$2,307	\$3,121	\$4,560
104,001-106,000	\$666	\$1,526	\$2,358	\$3,190	\$4,660
106,001-108,000	\$680	\$1,558	\$2,408	\$3,258	\$4,760
108,001-110,000	\$694	\$1,591	\$2,459	\$3,327	\$4,860
110,001-112,000	\$709	\$1,624	\$2,510	\$3,395	\$4,960
112,001-114,000	\$723	\$1,657	\$2,560	\$3,464	\$5,060
114,001-116,000	\$737	\$1,689	\$2,611	\$3,532	\$5,160
116,001-118,000	\$751	\$1,722	\$2,661	\$3,601	\$5,260
118,001-120,000	\$766	\$1,755	\$2,712	\$3,669	\$5,360
120,001-122,000	\$780	\$1,788	\$2,763	\$3,738	\$5,460
122,001-124,000	\$794	\$1,820	\$2,813	\$3,806	\$5,560
124,001-126,000	\$809	\$1,853	\$2,864	\$3,874	\$5,660
126,001-128,000	\$823	\$1,886	\$2,914	\$3,943	\$5,760
128,001-129,000	\$837	\$1,918	\$2,965	\$4,011	\$5,860

(d) In addition to the fees set forth in paragraphs (a) and (c) of this

subsection (8), an owner or operator may purchase a temporary permit as provided in section 49-432(2), Idaho Code, for operation of a vehicle at a weight in excess of the current, valid, registered maximum gross vehicle weight. The permit so issued shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable.

(e) Any commercial or farm vehicle registered for more than sixty thousand (60,000) pounds up to one hundred six thousand (106,000) pounds traveling fewer than two thousand five hundred (2,500) miles annually on roads and highways in the state, county, city and highway district systems in Idaho shall pay an annual registration fee of two hundred fifty-five dollars (\$255). The provisions of section 49-437(2), Idaho Code, shall not apply to vehicles registered under this subsection (8)(e).

(9)(a) During the first registration year that the fee schedule in subsection (8)(c) of this section is in use, an owner shall use the mileage data from the records used to report the mileage use fee in the immediately preceding year as the basis for determining the appropriate registration fee schedule.

(b) Any owner who registers a motor vehicle for the first time and who has no mileage history for the vehicle shall estimate the miles to determine the appropriate fee schedule in subsection (8)(c) of this section. When estimating the miles, the owner shall provide a statement on the application of the method used to arrive at the estimated miles.

(c) Any owner using any fee schedule other than the highest fee schedule under subsection (8)(c) of this section, shall certify at the time of registration that the miles operated in the preceding year do not exceed the schedule applied for. Any owner using a fee schedule under subsection (8)(c) of this section that is less than the highest schedule shall maintain records to substantiate the use of the schedule as required by section 49-439, Idaho Code.

(10) An owner registering under subsection (8)(a) or (8)(c) of this section may elect to pay the full annual registration fee at the time of registration or renewal of registration, or an owner may pay at least one-quarter ($\frac{1}{4}$) of the annual registration fee due. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(11) An owner registering or renewing a registration under subsection (8)(a) of this section electing to use installment payments as provided in subsection (10) of this section, shall pay all of the fees due to other IRP jurisdictions in addition to one-quarter ($\frac{1}{4}$) of the Idaho fee due at the time of registration or reregistration. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(12) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, and weigh less than the starting weights per axle configuration listed in column 1 of subsection (2), section 49-1004, Idaho Code, then and in that event there

shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

History.

I.C., § 49-127, as added by 1984, ch. 195, § 14, p. 445; am. 1986, ch. 135, § 1, p. 362; am. 1987, ch. 361, § 3, p. 794; am. and redesign. 1988, ch. 265, § 96, p. 549; am. 1988, ch. 337, § 1, p. 1003; am. 1989, ch. 310, § 18, p. 769; am. 1989, ch. 318, § 6, p. 817; am. 1990, ch. 197, § 3, p. 439; am. 1991, ch. 295, § 2, p. 769; am. 1992, ch. 35, § 21, p. 99; am. 1992, ch. 253, § 1, p. 737; am. 1992, ch. 261, § 19, p. 755; am. 1993, ch. 273, § 1, p. 913;

am. 1993, ch. 399, § 1, p. 1463; am. 1994, ch. 246, § 3, p. 766; am. 1994, ch. 311, § 2, p. 977; am. 1997, ch. 51, § 1, p. 85; am. 1998, ch. 108, § 1, p. 367; am. 1998, ch. 392, § 11, p. 1197; am. 2000, ch. 62, p. 134; am. 2000, ch. 418, § 7, p. 1331; am. 2001, ch. 73, § 11, p. 154; am. 2001, ch. 185, § 1, p. 643; am. 2001, ch. 353, § 1, p. 1235; am. 2001, ch. 355, § 3, p. 1242; am. 2007, ch. 23, § 1, p. 41; am. 2009, ch. 330, § 2, p. 942.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 330, in the introductory paragraph in subsection (4), inserted "plate and"; rewrote the introductory

paragraph in subsection (4)(a) to the extent that a detailed comparison is impracticable; and added subsections (4)(a)(i) and (4)(a)(ii).

49-451. Vehicle license cost recovery fee — Limitations. — (1) A car rental company may include separately stated surcharges, fees or charges in a rental agreement, which may include, but shall not be limited to, vehicle license cost recovery fees, airport access fees, airport concession fees and all applicable taxes.

(2) If a car rental company includes a vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the car rental company's good-faith estimate of the car rental company's daily charge as calculated by the car rental company to recover its actual total annual motor vehicle licensing, titling, registration, plating and inspection costs.

(3) If the total amount of the vehicle license cost recovery fees collected by a car rental company under this section in any calendar year exceeds the car rental company's actual costs to license, title, register and plate motor vehicles and have the same inspected for that calendar year, the car rental company shall retain the excess amount and adjust the estimated average per vehicle licensing, titling, registration, plating and inspection charge for the following calendar year by a corresponding amount.

(4) For purposes of this section, "vehicle license cost recovery fee" means a charge that may be separately stated and charged on the rental contract in a vehicle rental transaction originating in this state to recover costs incurred by a car rental company to license, title, register, plate and inspect rental vehicles.

History.

I.C., § 49-451, as added by 2010, ch. 262, § 1, p. 664.

49-454. Project choice fee. — (1) A project choice program fee of three

dollars (\$3.00) shall be collected in addition to each registration fee assessed pursuant to section 49-402(1), (2) or (3), 49-411, 49-412 or 49-434(1), Idaho Code. Such fees shall be deposited to the Idaho law enforcement fund established in section 67-2914, Idaho Code.

(2) The project choice program fee shall be collected and deposited pursuant to subsection (1) of this section for registrations for calendar year 2007 and thereafter.

(3) The project choice fee shall be used, subject to appropriation, exclusively for the purposes of creating a career ladder within the Idaho state police and to provide salaries to encourage the hiring and retention of trained and qualified employees for Idaho state police positions. Idaho state police personnel who have participated in and benefited from the use of the project choice fee, as of July 1, 2010, shall continue to participate in and benefit from the project choice fee while employed by the Idaho state police. Provided however, that beginning July 1, 2010, the use of the project choice fee shall be restricted in the following manner: the project choice fee shall be used exclusively for the purposes of creating a career ladder for commissioned officers, dispatch personnel and forensic personnel within the Idaho state police; and to provide salaries to encourage the hiring and retention of trained and qualified commissioned officers, dispatch personnel and forensic personnel.

History.

I.C., § 49-454, as added by 2006, ch. 227, § 1, p. 679; am. 2010, ch. 177, § 1, p. 365.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 177, added the last two sentences in subsection (3).

49-456. Violations of registration provisions. — It shall be unlawful for any person:

(1) To operate or for the owner to permit the operation upon a highway of any motor vehicle, trailer or semitrailer which is not registered and which does not have attached and displayed the license plates assigned to it for the current registration year, subject to the exemptions allowed in sections 49-426, 49-431 and 49-432, Idaho Code.

(2) To operate or for the owner to permit the operation on state and federal lands or upon highways, or sections of highways, as permitted under section 49-426(3) and (4), Idaho Code, any all-terrain vehicle, utility type vehicle or motorbike that does not have a valid and properly displayed restricted license plate issued pursuant to this chapter and attached registration sticker issued pursuant to section 67-7122, Idaho Code, subject to the exemptions allowed in section 49-426(2), Idaho Code.

(3) To display or cause or permit to be displayed, or to have in possession any registration card or license plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.

(4) To lend or knowingly permit the use by one not entitled to any

registration card or license plate issued to the person so lending or permitting that use.

(5) To fail or refuse to surrender to the department, upon demand, any registration card or license plate which has been suspended, canceled or revoked.

(6) To use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate, or knowingly to make a false statement or conceal a material fact or otherwise commit a fraud in any application.

History.

1927, ch. 244, § 24, p. 374; I.C.A., § 48-125; am. 1951, ch. 119, § 9, p. 273; am. 1953, ch. 261, § 10, p. 425; am. 1969, ch. 82, § 1, p. 235; am. and redesig. 1988, ch. 265, § 114, p. 549; am. 1992, ch. 35, § 31, p. 99; am. 2008, ch. 409, § 7, p. 1134; am. 2009, ch. 157, § 9, p. 458.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 157, deleted “public” preceding “lands” near the beginning of subsection (2).

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

CHAPTER 5

VEHICLE TITLES

SECTION.

49-502. Delivery of certificate of title upon sale or disposition — Reassignment by dealers.

49-504. Applications to department for certificates — Procedure — Identification numbers.

49-509. Stolen vehicles — Reporting by officers.

SECTION.

49-523. Procedure when department unsatisfied as to ownership or security interests — Temporary registration procedure.

49-524. Salvage certificate of ownership or electronic file to replace certificate of title or certificate of origin on vehicles.

49-502. Delivery of certificate of title upon sale or disposition — Reassignment by dealers. — (1) No person shall sell or otherwise dispose of a vehicle without delivery to the purchaser or transferee a certificate of title with an assignment as necessary to show title in the purchaser or transferee.

(2) The owner shown on the records of the department of any vehicle that is at least ten (10) years old or over sixteen thousand (16,000) pounds gross vehicle weight or has no odometer device, or of any vessel whose certificate of title has become lost, mutilated or illegible, may dispose of such vehicle or vessel by delivering to the purchaser or transferee a completed application for duplicate title, together with an assignment as necessary to show title in the purchaser or transferee. To obtain a certificate of title, the purchaser or transferee shall pay the fees pursuant to section 49-202(2)(b) and (c), Idaho Code.

(3) No person shall purchase or otherwise acquire or bring into the state a vehicle except for temporary use as provided by section 49-432, Idaho

Code, unless he shall obtain a certificate of title in his name in accordance with the provisions of this chapter.

(4) Any dealer holding current Idaho dealer license plates may, in lieu of having a certificate of title issued in his name, reassign either any existing certificate of title issued in this state or any application of duplicate certificate of title completed pursuant to subsection (2) of this section.

History.

I.C.A., § 48-402a, as added by 1941, ch.

144, § 3, p. 282; am. and redesign. 1988, ch. 265, § 117, p. 549; am. 2010, ch. 36, § 1, p. 66.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 36, designated the former first sentence as subsections (1) and (3); added subsection (2); designated the former last sentence as subsection (4); in subsection (1), added "transferee" at the end;

in subsection (3), added "No person shall" at the beginning; and, in subsection (4), inserted "either" following "reassign" and added "or any application of duplicate certificate of title completed pursuant to subsection (2) of this section" at the end.

JUDICIAL DECISIONS

Ownership Interest in Title.

Mobile home a debtor's mother purchased became part of the debtor's bankruptcy estate when the debtor declared Chapter 7 bankruptcy because the mother obtained title from the State of Idaho which listed the mother

"or" the debtor as owners. The mother's attempt to transfer title to a third person had no legal effect. *Gugino v. Jones (In re Antonie)*, — Bankr. —, 2011 Bankr. LEXIS 4549 (Bankr. D. Idaho Nov. 28, 2011).

49-503. Issuance of certificate of title requisite to acquisition of title — Waiver or estoppel.

JUDICIAL DECISIONS

ANALYSIS

Acquisition of title.

Bankruptcy.

Ownership interest in title.

Acquisition of Title.

No party acquires an ownership interest in a titled boat until a certificate of title is issued by the state naming that party as the owner, even where the former owner had endorsed the original certificate of title over to the new owner and the new owner had taken possession of the vessel. *Mayer v. Froerer Farms, Inc. (In re Mayer)*, 2010 Bankr. LEXIS 2400 (Bankr. D. Idaho July 19, 2010).

Bankruptcy.

Although debtors had attempted to sell a vehicle pre-petition, because the debtors were still listed on the vehicle's certificate of title as the owners on the petition date, it was property of the bankruptcy estate. The court rejected the purported buyers' argument that the vehicle was held in a constructive trust because no court had imposed such a trust, and, moreover, the Idaho legislature had stat-

utorily defined the equities by adopting a comprehensive system of registering ownership interests in titled vehicles. *In re Woods*, 386 B.R. 758 (Bankr. D. Idaho 2008).

Although a bankruptcy debtor sold an all-terrain vehicle (ATV) prior to filing a bankruptcy petition, the sale was avoidable as an unauthorized postpetition transfer since the transferee did not obtain a new certificate of title prior to the bankruptcy, and thus, title to the ATV remained in the debtor on the petition date and the ATV became property of the bankruptcy estate. *Gugino v. Knezevich (In re Pegram)*, 395 B.R. 692 (Bankr. D. Idaho 2008).

Although a debtor's name was removed from a boat's title for no consideration at a time when he was insolvent, summary judgment was not granted in favor of a trustee in his action to avoid the transfer under 11

U.S.C.S. § 548(a)(1)(B), as there was a question of material fact concerning the value of the debtor's interest that was transferred to the co-owner; the fact that under this section and subsection (3) of § 67-7039 the debtor had the authority to sell the boat while his name was on the title, and gave up that right when his name was removed from the title, required valuing the interest he transferred and any gain he realized from the transfer in the form of decreased liability for such items as maintenance and upkeep. *Gugino v. Ortega (In re Pierce)*, 428 B.R. 524 (Bankr. D. Idaho 2010).

Chapter 7 trustee had the right to sell a vehicle which debtor's mother titled in her name and the debtor's name, even though the debtor did not know that her name was on the title and the mother titled the vehicle in both

names so that the debtor could avoid probate if her mother predeceased her. Vehicle ownership is determined exclusively by reference to the names on the title certificate, and a lien creditor was justified in assuming that the debtor held an ownership interest in her mother's truck. *Hopkins v. Brasseaux (In re Saunders)*, 2008 Bankr. LEXIS 4868 (Bankr. D. Idaho Feb. 25, 2008).

Ownership Interest in Title.

When the state of Idaho issued a new certificate of title pursuant to this section and subsection (3) of § 67-7039, changing the ownership of a boat from a debtor and his co-owner to just the co-owner, a transfer occurred for purposes of federal bankruptcy law. *Gugino v. Ortega (In re Pierce)*, 428 B.R. 524 (Bankr. D. Idaho 2010).

49-504. Applications to department for certificates — Procedure
— Identification numbers. — (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain the owner's Idaho driver's license number, Idaho identification card number or social security number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust, or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. The form must contain the owner's physical domicile address or in the case of a business, trust or other statutorily created entity, such entity's physical address and any mailing address if different from the physical address. If the owner has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the owner may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her physical domicile address. Such application must be signed by the owner and contain a full description of the vehicle including the make, identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules to provide for exceptions to the odometer requirement. Social security numbers collected shall not appear on certificates of

title and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) If a certificate of title has not previously been issued for the vehicle in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which the vehicle was brought into this state, and a vehicle identification number inspection completed by any city, county or state peace officer or other special agent authorized by the department.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a manufacturer's certificate of origin or manufacturer's statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, and upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within thirty (30) calendar days after the delivery of the vehicles. Licensed dealers need not apply for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be submitted to the department by the dealer or the lienholder upon application signed by the purchaser. A copy of this application shall be given to the purchaser to be used as a seventy-two (72) hour temporary permit. In all other cases the certificates shall be obtained by the purchaser and the

seller's bill of sale shall serve as a seventy-two (72) hour permit. The seventy-two (72) hour time period for temporary permits shall be calculated excluding weekend days and legal holidays observed by the state of Idaho. This temporary permit allows operation of any noncommercial vehicle or unladen commercial vehicle or vehicle combination without license plates for the period of time specified in the permit. A laden commercial vehicle or vehicle combination may also operate without license plates for the period of time specified in the temporary permit provided that the owner or operator has also obtained a permit issued under the provisions of section 49-432, Idaho Code.

(7) If the vehicle has no identification number, then the department shall designate an identification number for that vehicle at the time of issuance of the certificate of title. The identification number shall be permanently affixed to or indented upon the frame of the vehicle and legibly maintained by the owner at all times while a certificate of title to the vehicle shall be issued and outstanding.

History.

I.C.A., § 48-402c, as added by 1941, ch. 144, § 3, p. 282; am. 1949, ch. 213, § 2, p. 452; am. 1955, ch. 71, § 4, p. 138; am. 1974, ch. 27, § 120, p. 811; am. 1980, ch. 267, § 1, p. 702; am. 1982, ch. 95, § 60, p. 185; am. 1984, ch. 143, § 2, p. 334; am. 1987, ch. 195, § 1, p.

405; am. and redesig. 1988, ch. 265, § 119, p. 549; am. 1989, ch. 35, § 1, p. 44; am. 1991, ch. 153, § 1, p. 361; am. 1993, ch. 321, § 1, p. 1179; am. 2000, ch. 55, § 1, p. 109; am. 2000, ch. 418, § 14, p. 1331; am. 2009, ch. 141, § 2, p. 424; am. 2010, ch. 225, § 6, p. 501; am. 2010, ch. 258, § 2, p. 658.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 141, in subsection (1), rewrote the first sentence and added the second, third, fourth, fifth, and last sentences.

This section was amended by two 2010 acts which appear to be compatible and have been compiled together.

The 2010 amendment, by ch. 225, added the sixth sentence in subsection (1).

The 2010 amendment, by ch. 258, in sub-

section (1), added the fifth sentence; and in the sixth sentence, inserted "trust or other statutorily created entity," and substituted "such entity's physical address" for "the business' physical address."

Effective Dates.

Section 8 of S.L. 2010, ch. 225 provided that the act should take effect on and after January 1, 2011.

Section 3 of S.L. 2010, ch. 258 declared an emergency. Approved April 8, 2010.

JUDICIAL DECISIONS

ANALYSIS

Federal bankruptcy law.
Vin index.

Federal Bankruptcy Law.

Where a lender's perfection of its security interest 21 days after the debtors' car purchase was timely under Idaho law, the trustee could avoid the transfer of the security interest to lender because perfection was one day late under federal bankruptcy provisions. *USAA Fed. Sav. Bank v. Thacker (In re Taylor)*, 599 F.3d 880 (9th Cir. 2010).

VIN Index.

Creditor's security interest in a debtor's

vehicle was perfected under this section and § 49-510, despite a one-character typographical error in the debtor's name on the certificate of title, because the vehicle identification number (VIN) registry, the department of transportation's required indexing protocol, indexed the certificate under the correct VIN and showed the creditor as the lien creditor. *Gugino v. GMAC (In re Laursen)*, 391 B.R. 47 (Bankr. D. Idaho 2008).

49-509. Stolen vehicles — Reporting by officers. — It shall be the duty of every sheriff, chief of police, officer of the Idaho state police, or officer having taken a report of a stolen vehicle, to immediately enter the information regarding the stolen vehicle into the national crime information center stolen vehicle file.

History.

I.C.A. § 48-402i, as added by 1941, ch. 144, § 3, p. 282; am. 1982, ch. 95, § 65, p. 185; am. and redesig. 1988, ch. 265, § 124, p. 549; am.

1991, ch. 153, § 5, p. 361; am. 1995, ch. 116, § 27, p. 386; am. 2000, ch. 469, § 115, p. 1450; am. 2010, ch. 98, § 1, p. 190.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 98, rewrote the section, revising requirements for reporting stolen vehicles.

Compiler's Notes.

For national crime information center, see <http://www.fas.org/irp/agency/doj/fbi/is/ncic.htm>.

49-510. Liens and encumbrances — Filing — Fee — Notation on certificate — Constructive notice.

JUDICIAL DECISIONS

ANALYSIS

Federal bankruptcy law.

Priority of liens, notice, effect.

Process.

Vin index.

Federal Bankruptcy Law.

Where a lender's perfection of its security interest 21 days after the debtors' car purchase was timely under Idaho law, the trustee could avoid the transfer of the security interest to lender because perfection was one day late under federal bankruptcy provisions. *USAA Fed. Sav. Bank v. Thacker (In re Taylor)*, 599 F.3d 880 (9th Cir. 2010).

ble to a trustee's preference claim under 11 U.S.C.S. §§ 547(b) and 550(a), even though the vehicles were purchased more than 90 days before the debtors filed their bankruptcy petition, because the date was changed on the electronic title from August 2007 to November 2007 in the process of correcting errors concerning the creditor's mailing address in the state's electronic records; thus, the creditor's motion pursuant to Fed. R. Bankr. P. Rule 9019, to approve a proposed settlement of a pending adversary proceeding against the creditor was rejected as too generous and not in the best interests of the parties in interest as required by 11 U.S.C.S. § 704(a)(1). In re White, 2008 Bankr. LEXIS 4388 (Bankr. D. Idaho Aug. 19, 2008).

Priority of Liens, Notice, Effect.

Creditors' liens were vulnerable to a trustee's preference claim under 11 U.S.C.S. §§ 547(b) and 550(a), even though the vehicles were purchased more than 90 days before the debtors filed their bankruptcy petition, because the vehicles would likely be deemed perfected under subsection (3) of this section outside of the 30-day grace period in light of the fact that the date was changed on the electronic title from August 2007 to November 2007 in the process of correcting errors concerning the creditor's mailing address in the state's electronic records. *In re White*, 2008 Bankr. LEXIS 4388 (Bankr. D. Idaho Aug. 19, 2008).

VIN Index.

Creditor's security interest in a debtor's vehicle was perfected under this section and § 49-504, despite a one-character typographical error in the debtor's name on the certificate of title, because the vehicle identification number (VIN) registry, the department of transportation's required indexing protocol, indexed the certificate under the correct VIN and showed the creditor as the lien creditor. *Gugino v. GMAC (In re Laursen)*, 391 B.R. 47 (Bankr. D. Idaho 2008).

Process.

Because a security interest is deemed perfected on the date noted by the state on the title certificate, creditors' liens were vulnera-

49-517. Printing and form of certificates.**JUDICIAL DECISIONS****Perfection of Interest.**

Because a security interest is deemed perfected on the date noted by the state on the title certificate, creditors' liens were vulnerable to a trustee's preference claim under 11 U.S.C.S. §§ 547(b) and 550(a), even though the vehicles were purchased more than 90 days before the debtors filed their bankruptcy petition, because the date was changed on the electronic title from August 2007 to November 2007 in the process of correcting errors con-

cerning the creditor's mailing address in the state's electronic records; thus, the creditor's motion pursuant to Fed. R. Bankr. P. Rule 9019 to approve a proposed settlement of a pending adversary proceeding against the creditor was rejected as too generous and not in the best interests of the parties in interest as required by 11 U.S.C.S. § 704(a)(1). *In re White*, 2008 Bankr. LEXIS 4388 (Bankr. D. Idaho Aug. 19, 2008).

49-523. Procedure when department unsatisfied as to ownership or security interests — Temporary registration procedure. — (1) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle, but shall either:

- (a) Withhold issuance of a certificate of ownership until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or
- (b) As a condition of issuing a certificate of ownership, require the applicant to file with the department all documents held as to the applicant's ownership of the vehicle, together with a bond in the form prescribed by the department and executed by the applicant, or a deposit of cash in a like amount. The bond shall be in an amount equal to one and one-half (1 1/2) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle, or on account of any defect in or disclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit, shall be returned at the end of three (3) years, or prior to that time if the vehicle is no longer registered in this state and the current valid certificate of ownership is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.
- (c) As to a vehicle ten (10) years old or more since manufacture, an applicant who is a resident of the state of Idaho may file with the department, before its authorized representative, a verified statement of facts setting out in detail the manner in which the applicant came into possession of the vehicle, the establishment of ownership, and a summary

of the applicant's attempts to contact any prior owners of the vehicle. Upon receipt by the department of the verified statement and all documentation relating to the applicant's possession of the vehicle, and completion of an inspection of the vehicle identification number by an authorized representative of the department, the applicant shall execute a document in the form provided by the department releasing it of any and all damages that may be suffered by the applicant, along with warranties that the applicant will pay any and all damages suffered by any person or entity as to the issuance of a title for that vehicle by the department. The department shall then issue a certificate of title to the applicant in form set out by this section. The certificate of title shall include the statement, "ISSUED ON STATEMENT OF APPLICANT", in permanent letters upon its face. The title issued pursuant to this subsection shall be presumed to indicate legal ownership of the vehicle at the end of the three (3) year period from the date of issue of that title, provided the vehicle is still registered in the state of Idaho, and there are no actions or claims pending against the applicant which place legal ownership in question. The department and the state of Idaho shall be immune as to any damages suffered by any person or entity as a result of the issuance of a certificate of title as provided by this subsection.

(2) Every dealer desiring the privilege of issuing temporary registration permits for the operation of vehicles shall make application to the department. If the privilege is granted, the dealer will receive a series of permits, consecutively numbered by the department, secured by the dealer at a fee of nine dollars (\$9.00) for each permit. A permit subsequently issued by a dealer to a purchaser shall be valid for a period not to exceed thirty (30) days.

The dealer shall issue temporary registration permits in numerical sequence, one (1) only for each vehicle sold to a bona fide purchaser. Each permit, and the attached stub, shall be completed in duplicate, in ink or by typewriter at the time of issuance. The expiration date on the original permit shall be filled in by rubber stamp or broad-tipped marking pen, and the print shall be at least three-fourths (3/4) inch high and one-eighth (1/8) inch wide. The original permit shall be displayed in the rear window of the vehicle for which it is issued, except when issued for a convertible, station wagon, motorcycle, or other vehicle for which this would not be practical. In these exceptional cases, the permit should be conspicuously displayed in a place where the number of the permit and the expiration date may be easily read and where protected from exposure to weather conditions which would render it illegible.

(3) The dealer shall keep a written record of every temporary registration permit issued. This record shall include the name and address of the person or firm to whom the permit is issued, a description of the vehicle for which it is issued, including year, make, model, identification number, and the date of issue. This record shall list all permits in numerical sequence and shall be open to inspection by any peace officer or designated employee of the department.

(4) The fees collected from dealers by the department under the provi-

sions of this section shall be transmitted by the department to the state treasurer for deposit in the highway distribution account.

(5) Upon application for title and for registration of a vehicle for which temporary registration has been issued under this section, the county assessor shall collect and fees shall be deemed due from the date of issuance of the temporary registration permit rather than from date of application for title or registration.

(6) The department or a county assessor may issue temporary vehicle registration permits in an emergency situation. The fee for a temporary registration shall be nine dollars (\$9.00), and shall be valid for a period of thirty (30) days. The temporary fees collected by the department shall be transmitted to the state treasurer for deposit in the highway distribution account. Temporary fees collected by an assessor shall be distributed as follows: five dollars (\$5.00) shall be deposited in the county current expense fund and four dollars (\$4.00) shall be transmitted to the department for deposit through the state treasurer in the highway distribution account.

History.

I.C., § 49-434, as added by 1982, ch. 354, § 1, p. 902; am. 1984, ch. 195, § 27, p. 445; am. 1984, ch. 260, § 1, p. 628; am. and

redesig. 1988, ch. 265, § 138, p. 549; am. 1991, ch. 153, § 12, p. 361; am. 2009, ch. 331, § 5, p. 947.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 331, increased the fees in the first paragraph in subsection (2) and throughout subsection (6).

Legislative Intent.

Section 1 of S.L. 2009, ch. 331 provided: "Legislative Intent. It is the intent of the Legislature that the moneys raised through the increase in fees authorized by the provisions of this act be expended in the following order on and for the following:

"(a) First, moneys raised from the increase in fees should be expended to address any revenue deficit or shortfall that the Division of Motor Vehicles is operating under as of June 30, 2009.

"(b) Second, any moneys remaining after the expenditures relating to subsection (a) of

this section, should be expended on improvements to the Division of Motor Vehicle's technology operations and improvements.

"(c) Third, any moneys remaining after the expenditures relating to subsections (a) and (b) of this section, should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems.

"(d) The department should review approximately every five (5) years the fees provided for in this act and recommend appropriate changes to such fees in the Legislature."

Effective Dates.

Section 9 of S.L. 2009, ch. 331 provided that the act should take effect on and after January 1, 2010.

49-524. Salvage certificate of ownership or electronic file to replace certificate of title or certificate of origin on vehicles. —

(1) Every person acquiring a vehicle which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department or under the direction of the department and shall be on a form or electronic

file as prescribed by the department. The form or electronic file shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate or electronic filing of a salvage certificate shall be fifteen dollars (\$15.00). The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) If an insurer has made payment for a salvage vehicle, or a salvage pool, is unable to obtain a properly released certificate of origin or certificate of title for the salvage vehicle within thirty (30) days after the acceptance by the owner of an amount in settlement of a total loss, then the salvage pool may issue a salvage certificate with agreement from the insurer to the purchaser without having first obtained the properly released certificate of origin or certificate of title. Within ten (10) days of the issuance of a salvage certificate to the purchaser, the insurer or the salvage pool shall submit to the department the following: a sworn statement that it made at least two (2) written attempts to obtain from the owner the properly released manufacturer's certificate of origin, manufacturer's statement of origin or certificate of title, by sending notice to the owner at the owner's address of record with the department; a copy of each such written attempt; proper evidence of the satisfaction or discharge of any lien or encumbrance properly noted upon the certificate of title or upon the electronic records of the department; a copy of the salvage certificate; the salvage certificate fee; indemnifying affidavit; and other documents as required by the department for processing. The department shall mark its records appropriately.

(8) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars (\$1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate, or to sell the vehicle and not tell the buyer that the vehicle is totaled.

(9) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than thirty (30) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(10) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(11) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle. A notation of "theft recovery" shall be made on the title record.

(12) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate.

(13) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(14) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department.

History.

I.C., § 49-524, as added by 1989, ch. 285, § 7, p. 698; am. 1994, ch. 296, § 3, p. 933; am. 1995, ch. 162, § 1, p. 641; am. 1996, ch. 327, § 2, p. 1117; am. 2001, ch. 73, § 16, p. 154; am. 2006, ch. 102, § 1, p. 280; am. 2008, ch. 84, § 2, p. 219; am. 2011, ch. 143, § 1, p. 404.

STATUTORY NOTES**Amendments.**

The 2011 amendment, by ch. 143, added

subsection (7) and redesignated the subsequent subsections accordingly.

CHAPTER 6**RULES OF THE ROAD****SECTION.**

- 49-601. Application.
- 49-613. Putting glass or other injurious materials on highway prohibited.
- 49-623. Authorized emergency or police vehicles.
- 49-624. Driver duty upon approaching a stationary police vehicle or an au-

SECTION.

- thorized emergency vehicle displaying flashing lights.
- 49-654. Basic rule and maximum speed limits.
- 49-663. Restricted use of neighborhood electric vehicles on highways.

49-601. Application. — The provisions of this chapter relate exclusively to the operation of vehicles upon highways, except where a different place is specifically referred to in a given section.

They shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway, or to owners or operators of a ditch, canal, conduit or drain while engaged in work within and pursuant to a right-of-way for a ditch, canal, conduit or drain, but shall apply to persons, owners, operators and vehicles when traveling to or from that work.

History.

I.C., §§ 49-601, 49-604, as added by 1977,

ch. 152, § 3, p. 337; am. 1988, ch. 265, § 140, p. 549; am. 2011, ch. 179, § 1, p. 510.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 179, in the second paragraph, inserted "or to owners or operators of a ditch, canal, conduit or drain

while engaged in work within and pursuant to a right-of-way for a ditch, canal, conduit or drain" and "owners, operators."

49-613. Putting glass or other injurious materials on highway prohibited. — The following shall apply to persons and vehicles not otherwise exempted from the application of this section by federal or state law:

(1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon the highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove that material or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from that vehicle.

(4) No vehicle shall be operated on any public highway unless such vehicle's load is secured to prevent the load from becoming loose, detached or a hazard to other users of the highway.

(5) No person may operate on any public highway any vehicle with any load unless the load is secured and such covering as required thereon by subsection (6) of this section is securely fastened to prevent the covering or load from becoming loose, detached or a hazard to other users of the highway.

(6) Any vehicle operating on a paved public highway with a load of dirt, sand or gravel susceptible to being dropped, spilled, leaked or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six (6) inches of freeboard is maintained.

(7) The provisions of subsections (5) and (6) of this section shall not apply to a government, quasi-government, their agents or employees or contractors thereof, in performance of maintenance or construction of a highway.

(8) The provisions of subsections (4), (5) and (6) of this section shall not apply to vehicles owned by canal companies, irrigation districts, drainage districts or their boards of control, lateral ditch associations, water districts or other irrigation water delivery or management entities, or operated by any employee or agent of such an entity, performing construction, operation or maintenance of facilities.

(9) The provisions of subsections (4), (5) and (6) of this section shall not apply to vehicles transporting processed or unprocessed agricultural products, agricultural byproducts, agricultural materials or agricultural inputs.

History.

I.C., § 49-711, as added by 1977, ch. 152, § 150, p. 549; am. and redesign. 1988, ch. 265,

§ 4, p. 337; am. and redesign. 1988, ch. 265,

§ 150, p. 549; am. 2011, ch. 326, § 1, p. 951.

STATUTORY NOTES**Amendments.**

The 2011 amendment, by ch. 326, added the

introductory paragraph and added subsections (4) through (9).

49-623. Authorized emergency or police vehicles. — (1) The driver of an authorized emergency or police vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated.

(2) The driver of an authorized emergency or police vehicle may:

(a) Park or stand, irrespective of the parking or standing provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limits so long as he does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an authorized emergency or police vehicle shall apply when necessary to warn and to make use of an audible signal having a decibel rating of at least one hundred (100) at a distance of ten (10) feet and/or is displaying a flashing light visible in a 360 degree arc at a distance of one thousand (1,000) feet under normal atmospheric conditions.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(5) The foregoing provisions shall apply to the driver of an authorized emergency or police vehicle of another state of the United States who enters this state in response to an emergency call, or when in the fresh pursuit of a suspected felon as provided in section 19-701, Idaho Code, or when responding to but not upon returning from a fire alarm.

History.

I.C., § 49-606, as added by 1977, ch. 152,

§ 3, p. 337; am. and redesign. 1988, ch. 265,

§ 155, p. 549; am. 2010, ch. 138, § 2, p. 292.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 138, added subsection (5).

Effective Dates.

Section 4 of S.L. 2010, ch. 138 declared an emergency. Approved March 29, 2010.

JUDICIAL DECISIONS

Reckless Disregard.

To constitute reckless disregard, the actor's conduct must not only create an unreasonable risk of bodily harm, but the actor must actually perceive the high degree of probability that harm will result and continue in his course of conduct. Actual knowledge of the high degree of probability that harm will result does not require knowledge of the actual person or persons at risk, or the exact manner in which they would be harmed; it only requires knowledge of the high degree of probability of the kind of harm that the injured party suffered. *Athay v. Stacey*, 146 Idaho 407, 196 P.3d 325 (2008).

In a claim under the Idaho Tort Claims Act, § 6-901 et seq., to determine whether the conduct of a driver of an authorized police vehicle involved in a police chase amounted to reckless disregard for the safety of others for which the driver could be held liable, a court considers the foreseeability that there would be other vehicles on the highway; that the driver's conduct created an unreasonable risk of bodily harm to the occupants of those vehicles; and that the driver perceived there was a high degree of probability that harm would result, but continued his course of conduct. *Athay v. Stacey*, 146 Idaho 407, 196 P.3d 325 (2008).

49-624. Driver duty upon approaching a stationary police vehicle or an authorized emergency vehicle displaying flashing lights. — The driver of a motor vehicle, upon approaching a stationary police vehicle displaying flashing lights or an authorized emergency vehicle displaying flashing lights shall:

(1) If the driver is traveling on a highway with two (2) or more lanes carrying traffic in the same direction, immediately reduce the speed of his vehicle below the posted speed limit, proceed with due caution and, if traveling in a lane adjacent to the stationary police vehicle displaying flashing lights or the authorized emergency vehicle displaying flashing lights, change lanes into a lane that is not adjacent to such vehicle as soon as it is possible to do so in a manner that is reasonable and prudent under the conditions then existing, with regard to actual and potential hazards.

(2) If the driver is traveling on a highway with one (1) lane for each direction of travel, immediately reduce the speed of his vehicle below the posted speed limit, and maintain a safe speed for the road, weather and traffic conditions until completely past the stationary police vehicle or authorized emergency vehicle.

History.

I.C., § 49-624, as added by 2006, ch. 78,

§ 1, p. 237; am. 2007, ch. 113, § 1, p. 328; am. 2011, ch. 17, § 1, p. 54.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 17, inserted "if traveling in a lane adjacent to the stationary police vehicle displaying flashing lights or the

authorized emergency vehicle displaying flashing lights" and "into a lane that is not adjacent to such vehicle" in subsection (1).

49-625. Operation of vehicles on approach of authorized emergency or police vehicles.

JUDICIAL DECISIONS

De Facto Detention.

Police officers' actions, stopping near defendant's parked car and turning on the police vehicles' overhead lights, were a show of authority that would convey to a reasonable

person that the officers were ordering him to restrict his movement, creating a de facto seizure when defendant submitted to their authority. *State v. Willoughby*, 147 Idaho 482, 211 P.3d 91 (2009).

49-654. Basic rule and maximum speed limits. — (1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard or condition exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

- (a) Thirty-five (35) miles per hour in any residential, business or urban district, unless otherwise posted in accordance with section 49-207(2) or (3), Idaho Code;
- (b) Seventy-five (75) miles per hour on interstate highways;
- (c) Sixty-five (65) miles per hour on state highways;
- (d) Fifty-five (55) miles per hour in other locations unless otherwise posted up to a maximum of sixty-five (65) miles per hour.

(3) The maximum lawful speed limit on interstate highways shall not exceed sixty-five (65) miles per hour for vehicles with five (5) or more axles operating at a gross weight of more than twenty-six thousand (26,000) pounds.

History.

I.C., § 49-681, as added by 1977, ch. 152, § 3, p. 337; am. 1977, ch. 151, § 1, p. 335; am. 1987, ch. 280, § 1, p. 590; am. and redesign. 1988, ch. 265, § 179, p. 549; am. 1989, ch. 89, § 1, p. 210; am. 1991, ch. 100, § 3, p. 221; am. 1996, ch. 270, § 4, p. 872; am. 1997, ch. 155, § 6, p. 438; am. 1997, ch. 377, § 1, p. 1207; am. 1998, ch. 158, § 1, p. 534; am. 2012, ch. 325, § 6, p. 894.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 325, rewrote paragraph (2)(a), which formerly read, "Thirty-five (35) miles per hour or a lesser maximum speed adopted pursuant to section 49-

207(2)(a), Idaho Code, in any residential, business or urban district," deleted former (2)(b) which read, "Thirty-five (35) miles per hour in any urban district," and redesignated the subsequent paragraphs accordingly.

JUDICIAL DECISIONS**ANALYSIS****Speed.**

—Evidence.

Speed.**—Evidence.**

State trooper's testimony concerning his visual estimate of the speed of defendant's vehicle, standing alone, was insufficient to prove beyond a reasonable doubt that defendant's vehicle was traveling above the speed limit, where the evidence was void of any

information at all on the trooper's accuracy rate and the state produced no evidence of the distance between the officer's location and defendant's vehicle when the officer made his estimation, the angle of the officer's view, or how long he observed the vehicle before reaching his conclusion. *State v. Estes*, 148 Idaho 345, 223 P.3d 287 (Ct. App. 2009).

49-663. Restricted use of neighborhood electric vehicles on highways. — (1) It is unlawful to operate a neighborhood electric vehicle on any highway with a posted speed limit of over thirty-five (35) miles per hour.

(2) It is unlawful for a person operating a neighborhood electric vehicle to cross any highway with a posted speed limit greater than forty-five (45) miles per hour.

History.

I.C., § 49-663, as added by 2005, ch. 183, § 5, p. 558; am. 2009, ch. 194, § 1, p. 628.

STATUTORY NOTES**Compiler's Notes.**

The 2009 amendment, by ch. 194, in subsection (1), substituted "thirty-five (35) miles per hour" for "twenty-five (25) miles per hour"; and, in subsection (2), substituted "forty-five (45) miles per hour" for "twenty-five (25) miles per hour."

Effective Dates.

Section 2 of S.L. 2009, ch. 194 declared an emergency. Approved April 20, 2009.

CHAPTER 8**SIGNS, SIGNALS AND MARKINGS****49-808. Turning movements and required signals.****JUDICIAL DECISIONS****Constitutionality.**

This section is constitutionally vague when applied to highway where two lanes merge

with neither lane clearly ending and neither clearly continuing. *Burton v. State*, 149 Idaho 746, 240 P.3d 933 (Ct. App. 2010).

CHAPTER 9**VEHICLE EQUIPMENT****SECTION.**

49-948. Restrictions as to tire equipment.

SECTION.

49-959. Air-conditioning equipment.

49-902. Scope and effect.**JUDICIAL DECISIONS****Negligence Per Se.**

When injured party's complaint alleged that a vehicle owner knowingly permitted a vehicle in a dangerous condition to be oper-

ated on the public roadway, the allegation was broad enough to include a claim of negligence per se under this section. *Nava v. Rivas-Del Toro*, 151 Idaho 853, 264 P.3d 960 (2011).

49-948. Restrictions as to tire equipment. — (1) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

(2) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the highway.

(3) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except as allowed herein. It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and it shall be permissible to use tire chains. Tires with built-in lugs of tungsten carbide or other suitable material, hereinafter called studs, may be used upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid, that will not unduly damage the highway. Motor vehicles, trailers and semitrailers with tires having built-in studs are prohibited on public highways between the dates of May 1 and September 30, annually, except as provided in paragraphs (a), (b) and (c) of this subsection:

(a) Fire pumper/tanker trucks and ladder trucks belonging to fire departments and firefighting agencies are exempt from the prohibited dates.

(b) A vehicle may be equipped year-round with tires that have retractable studs if the studs retract pneumatically or mechanically to at or below the wear bar of the tire when not in use and the retractable studs protrude beyond the wear bar of the tire only between October 1 and April 30. Retractable studs may be made of metal or other material and are not subject to the stud weight requirements of subsection (4) of this section.

(c) Special exemptions from the prohibited dates may be granted by the Idaho transportation board if it is found by the board that enhancements to public safety outweigh the increased pavement wear.

(4) Commercial tire retailers shall not sell studded tires with studs exceeding the following weight and protrusion limitations after July 1, 2005. Commercial tire retailers and tire shops shall not manually install studs exceeding the following weight and protrusion limitations after July 1, 2005.

(a) Studs shall not protrude more than six-hundredths (.06) of an inch from the surface of the tire tread when originally installed.

(b) Stud size shall be as recommended by the manufacturer of the tire for the type and size of the tire.

(c) Studs shall individually weigh no more than one and one-half (1.5) grams if the stud is size 14 or less.

(d) Studs shall individually weigh no more than two and three-tenths (2.3) grams if the stud size is 15 or 16.

(e) Studs shall individually weigh no more than three (3) grams if the stud size is 17 or larger.

(5) If the Idaho transportation department determines, at any time, that Lookout Pass or Fourth of July Pass on interstate 90 or Lolo Pass on state highway 12 is of an unsafe condition so as to require chains, as defined in section 49-104, Idaho Code, in addition to pneumatic tires, the Idaho transportation department may establish requirements for the use of chains on all commercial vehicles as defined in section 49-123(2)(c)(i) and (ii), Idaho Code, traveling on interstate 90 or state highway 12. If the Idaho transportation department establishes that chains are so required, the Idaho transportation department shall:

- (a) Provide multiple advance notices of the chain requirement;
- (b) Provide adequate opportunities for pull out;
- (c) Provide notification at a point at which the commercial vehicle can safely pull out of the normal flow of traffic, prior to the point at which chains are required; and
- (d) In no case post requirements for chains on bare pavement.

(6) Provided that the conditions in subsection (5) of this section are met, the chain requirement shall be met by chaining a minimum of one (1) tire on each side of:

- (a) One (1) drive axle, regardless of the number of drive axles; and
- (b) One (1) axle at or near the rear of each towed vehicle. Such axle shall not include a variable load suspension axle or an axle of a converter dolly.

(7) Chains as required in subsection (6)(a) and (b) of this section mean "chains" as defined in section 49-104, Idaho Code. Any other traction device differing from chains in construction, material or design but capable of providing traction equal to or exceeding that of chains under similar conditions may be used.

(8) The Idaho transportation department shall place and maintain signs and other traffic control devices on the interstate and state highway passes as designated in subsection (5) of this section that indicate the chain requirements under subsection (6) of this section.

(9) Exempt from the chaining requirements provided for in subsections (5) and (6) of this section are:

- (a) Motor vehicles operated by the Idaho transportation department when used in the maintenance of the interstate or state highway system; and
- (b) The following:
 - (i) Motor vehicles employed solely in transporting school children and teachers to or from school or to or from approved school activities, when the motor vehicle is either:
 1. Wholly owned and operated by such school; or
 2. Leased or contracted by such school and the motor vehicle is not used in furtherance of any other commercial enterprise;
 - (ii) Motor vehicles controlled and operated by any farmer when used in the transportation of the farmer's farm equipment or in the transportation of supplies to the farmer's farm;
 - (iii) The transportation of agricultural products including fresh fruits

and vegetables, livestock, livestock feed or manure at any time of the year;

(iv) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States;

(v) Motor carriers transporting products of the forest at any time of the year, including chip trucks;

(vi) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, excepting petroleum products; and

(vii) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, commonly known as a "wrecker truck" or "tow truck."

History.

1953, ch. 273, § 155, p. 478; am. 1965, ch. 9, § 1, p. 17; am. 1974, ch. 12, § 73, p. 61; am. and redesig. 1988, ch. 265, § 264, p. 549; am.

2003, ch. 124, § 1, p. 374; am. 2007, ch. 101, § 1, p. 305; am. 2008, ch. 330, § 3, p. 907; am. 2009, ch. 157, § 10, p. 458.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 157, updated the last section reference in the introductory paragraph in subsection (5) to reflect the 2009 amendment of § 49-123.

Effective Dates.

Section 17 of S.L. 2009, ch. 157 declared an emergency. Approved April 9, 2009.

49-959. Air-conditioning equipment. — (1) Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable at or below one thousand degrees (1000°) Fahrenheit, unless the refrigerant is included in the list published by the United States environmental protection agency as an approved alternative motor vehicle air-conditioning substitute for chlorofluorocarbon-12 under 42 U.S.C. section 7671k(c).

(2) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any air-conditioning equipment unless it complies with the requirements of this section.

(3) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless the equipment complies with the requirements of this section.

History.

I.C., § 49-564.42.1, as added by 1955, ch. 84, § 31, p. 156; am. 1974, ch. 27, § 136, p.

811; am. and redesig. 1988, ch. 265, § 269, p. 549; am. 1997, ch. 392, § 1, p. 1249; am. 2010, ch. 259, § 1, p. 661.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 259, in subsection (1), added the language beginning

"unless the refrigerant is included in the list" through to the end.

CHAPTER 10

WEIGHT, SPEED AND TIRE REGULATIONS

SECTION.

49-1004. Permits for overweight or oversize loads — Special pilot project routes and annual permits.

SECTION.

49-1010. Size of vehicles and loads.

49-1004. Permits for overweight or oversize loads — Special pilot project routes and annual permits. — (1) Upon application in writing to the board or other proper authorities in charge of, or having jurisdiction over a highway, the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried over and on the highways and bridges.

(a) Special permits shall be in writing and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation.

(b) The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways.

(c) All special permits or evidence of intent to obtain a permit, shall be carried in the vehicles to which they refer and shall upon demand be delivered for inspection to any peace officer, authorized agent of the board or any officer or employee charged with the care or protection of the highways.

(2) Nonreducible vehicles or combinations of vehicles hauling nonreducible loads at weights in excess of those set forth in section 49-1001, Idaho Code, shall pay fees as set forth in this subsection (2). Such fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight.

Number of axles	Column 1	Column 2
	Gross weight of vehicle and load in pounds	Gross weight of vehicle and load in pounds
2	40,001	-
3	54,001	-
4	68,001	-
5	80,001	131,001
6	97,001	148,001
7	114,001	165,001

(a) To determine the maximum allowable permit fee for vehicles with more than seven (7) axles, the table can be extended by adding seventeen thousand (17,000) pounds to the last listed weight in both columns 1 and 2 for each added axle.

(b) Permit fees for column 1 shall start at four cents (4¢) per mile and increase four cents (4¢) per mile for each additional two thousand (2,000) pound increment up to the weight indicated in column 2. Permit fees for column 2 shall start at one dollar and two cents (\$1.02) per mile and increase seven cents (7¢) per mile for each additional two thousand (2,000) pound increment.

(c) Vehicles operating at weights less than the starting weights per axle configuration listed in column 1 shall be charged four cents (4¢) per mile.

(d) For vehicles operating with axles wider than eight (8) feet six (6) inches or axles with more than four (4) tires per axle, the fee may be reduced by the board or other proper authority having jurisdiction over a highway.

(3) It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of special permits and any violation shall be deemed for all purposes to be a violation of the provisions of this chapter.

(4) An annual special pilot project route permit authorizing travel on pilot project routes shall be issued by the board or may, in its discretion, be issued by a local public highway agency for operation of vehicles with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds. Such pilot project routes on nonstate and noninterstate highways shall be determined by the local highway agency for those roads under its jurisdiction. No local public highway agency shall approve a pilot project route which provides a thoroughfare for interstate carriers to pass through the state. State pilot project routes designated by the legislature and identified on a map entitled "Designated Pilot Project Routes" are:

- (a) US-20 Montana border to its junction with SH-33; SH-33 to its junction with US-20; US-20 to its junction with US-93; US-93 to its junction with SH-25; SH-25 to its junction with SH-50; SH-50 to its junction with US-30; US-30 to its junction with SH-74; SH-74 to its junction with US-93; US-93 to the Nevada border.
- (b) US-91 from its junction with SH-34 to the Utah border.
- (c) US-30 from its junction with I-15 to the Wyoming border.
- (d) US-95 south from milepost 66 (Fruitland) to its junction with SH-55.
- (e) SH-19 from its junction with US-95 (Wilder) to its junction with I-84B (Caldwell).
- (f) SH-78 from its junction with SH-55 (Marsing) to its junction with SH-51; SH-51 to its junction with SH-78; SH-78 to its junction with I-84B (Hammett).
- (g) SH-67 from its junction with SH-51 (Mountain Home) to its junction with SH-78 (Grandview).
- (h) SH-55 from intersection with Farmway Road to junction with US-95.
- (i) SH-25 from its junction with SH-24 to its junction with SH-27 (Paul).
- (j) SH-25 from its junction with US-93 to milepost 27 (Hazelton).
- (k) SH-24 from intersection with US-93 to its intersection with SH-25.
- (l) US-20 from its intersection with New Sweden Road to its junction with SH-22/33.

- (m) SH-34 from milepost 78 to the junction with US-91.
- (n) US-26 from its junction with US-91 north to its intersection with Gallatin/West 23rd Street in Idaho Falls.
- (o) US-91 from the intersection with Canyon Road to the junction with US-26.
- (p) SH-22 from its junction with I-15 northbound ramps (Dubois) to its junction with SH-33.
- (q) SH-45 from its junction with SH-78 to its junction with I-84 business loop; I-84 business loop to its junction with exit 35 (Nampa Boulevard/Northside Boulevard).
- (r) SH-87 from Montana border to junction with US-20.
- (s) SH-33 from its junction with SH-31 (Victor) to its junction with SH-33 spur; SH-33 spur to its junction with US-20.
- (t) SH-28 from junction with SH-22 to junction with SH-33.
- (u) SH-38 from milepost 0.689 to milepost 1.318 at Malad.
- (v) SH-27 from its junction with SH-25 (Paul) to its junction with I-84B (Burley); I-84B to its junction with SH-27; SH-27 to milepost 0 (Oakley).
- (w) SH-81 from its junction with SH-77 (Malta) to its junction with US-30 (Burley).
- (x) US-30 from junction with SH-81 at Burley to junction with SH-50 at Kimberly.
- (y) US-93 spur from junction with US-30 to junction with US-93 at Twin Falls.
- (z) US-93 from junction with US-93 spur to junction with US-30 at Twin Falls.
- (aa) US-30 from junction with SH-74 at Twin Falls to junction with I-84 business loop at Bliss.
- (bb) US-26 from its junction with SH-75 (Shoshone) to its junction with I-84 exit 141 westbound ramps (Bliss); I-84 business loop from its junction with I-84 exit 141 westbound ramps to its junction with US-30 (Bliss).
- (cc) SH-46 spur from its junction with SH-46 (Wendell) to its junction with I-84 exit 155 eastbound ramps.
- (dd) SH-46 from its junction with US-20 to its junction with I-84 exit 157 eastbound ramps (Wendell).
- (ee) US-20 from junction with US-93 at Carey to junction with I-84 business loop at interchange 95; I-84 business loop from interchange 95 to junction with SH-51; SH-51 to junction with SH-67.
- (ff) SH-51 from junction with SH-67 to junction with SH-78.
- (gg) SH-44 from its junction with SH-55 (Eagle) to its junction with I-84 exit 25 eastbound ramps.
- (hh) US-20/26 from its junction with US-95 (Parma) to its junction with I-84 exit 26 westbound ramps.
- (ii) US-20 from junction with US-33 at Sugar City south to junction with US-20 business loop/Holmes Avenue; US-20 business loop/Holmes Avenue south to junction with US-26/Yellowstone; US-26 from intersection with US-20 business loop/Holmes Avenue south to Gallatin.

Additions or deletions to the approved state pilot project routes specified in this subsection (4) shall be made only with the approval of the state legislature.

(5) An annual administrative permit fee for operating on pilot project routes at the weights specified in subsection (4) of this section shall be set by the board for travel on state pilot project routes and by the local public highway agency for travel on routes under its jurisdiction, but not to exceed a maximum of fifty dollars (\$50.00) per vehicle. The annual administrative permit fee shall cover administrative costs. Local public highway agencies are authorized to issue special pilot project permits and such permits shall be in writing. Administrative permit fees for permits issued by a local public highway agency shall be retained by the local public highway agency to cover administrative costs, and administrative permit fees for permits issued by the department shall be retained by the department to cover administrative costs. In addition to the annual administrative permit fee and the appropriate registration fee for weights up to one hundred five thousand five hundred (105,500) pounds, the appropriate vehicle registration fees for weights over one hundred five thousand five hundred (105,500) pounds shall be calculated and collected in accordance with the fee schedules set forth in section 49-432 or 49-434, Idaho Code.

(6)(a) In any action or proceeding brought for the purpose of setting aside a special permit issued pursuant to this section, in which any party seeks a stay or seeks a temporary restraining order or preliminary injunction against the department, other appropriate authority, the state of Idaho or any party requesting the permit, the court may require bond as provided in rule 65(c) of the Idaho rules of civil procedure, in an amount not to exceed ten percent (10%) of the shipper's or transporter's insured value of the product or material to be transported under the provisions of the permit. If any attorney's fees and/or costs are awarded to the department or other state actor, such bond may be used to satisfy that award and all awarded amounts shall be paid to the state highway account established in section 40-702, Idaho Code.

(b) Where there is a final judgment in an action or proceeding brought for the purpose of setting aside a special permit issued pursuant to this section against the party or parties who brought such action or proceeding, the court may determine the actual damages resulting from the action or proceeding caused to the department or other state actor and may award up to that amount to the party or parties.

History.

1929, ch. 156, § 5, p. 281; I.C.A., § 48-605; am. 1974, ch. 12, § 75, p. 61; am. 1978, ch. 179, § 1, p. 409; am. and redesign. 1988, ch. 265, § 275, p. 549; am. 1998, ch. 108, § 2, p. 367; am. 1998, ch. 158, § 3, p. 534; am. 2000,

ch. 418, § 16, p. 1331; am. 2003, ch. 315, § 2, p. 859; am. 2005, ch. 63, § 1, p. 220; am. 2007, ch. 257, § 1, p. 763; am. 2007, ch. 258, § 1, p. 766; am. 2008, ch. 156, § 1, p. 447; am. 2011, ch. 277, § 1, p. 753.

STATUTORY NOTES**Amendments.**

The 2011 amendment, by ch. 277, added subsection (6).

Effective Dates.

Section 2 of S.L. 2011, ch. 277 declared an emergency. Approved April 11, 2011.

49-1010. Size of vehicles and loads. — No vehicle shall exceed the dimensions specified below, except that certain devices determined by the

board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, or any trailer not wider than the implement of husbandry used in the transportation of implements of husbandry for agricultural operations, and including all equipment used in land leveling operations, when being incidentally operated upon the highway from one (1) farm operation to another during daylight hours.

(b) The limitations as to size of vehicles shall not apply to farmers or their designated agents, transporting implements of husbandry and equipment listed in paragraph (a) of this subsection for the purpose of:

(i) The repair or maintenance of such implements of husbandry and equipment when traveling to or from a farm to a repair or maintenance facility during daylight hours; or

(ii) The purchase or sale of such implements of husbandry and equipment when traveling to or from a farm to a dealership, auction house or other facility during daylight hours.

(c) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-1004, Idaho Code, shall not exceed 9 feet.

(d) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (c) of this subsection, must display one (1) red or fluorescent orange flag a minimum of twelve (12) by twelve (12) inches on the outermost left projection of the tractor or implement being transported.

(2) The height of a vehicle, including the load thereon, shall not exceed 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below shall not exceed:

(a) When a single motor vehicle 45 feet.
(b) When a trailer or semitrailer, except as noted below 48 feet.

1. Semictrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to an overall combination length not to exceed 65 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

3. Semictrailers operating on routes which are a part of the national network as set forth in 23 CFR 658, on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national

network and state highways as set forth by policy and approved by the transportation board shall not exceed a length of 53 feet.

(c) When a motor vehicle and one (1) or more trailers, except as noted in subsections (3)(b), (3)(d) and (3)(e) of this section 75 feet.

(d) When a combination of semitrailer and trailer, or of two (2) semitrailers the length in such combination, including the connecting tongue and excluding the truck tractor except as noted below 61 feet.

When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongues exceeds sixty-one (61) feet, the length of such combination including the truck tractor 75 feet.

(e) When a combination of a semitrailer and trailer, or of two (2) semitrailers operating on routes on the national network as set forth in 23 CFR 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network, the length, including the connecting tongue and excluding the truck tractor, shall not exceed 68 feet.

(f) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) 75 feet.

(g) When a dromedary combination transporting class 1 explosive materials and/or any munitions-related security material as specified by the U.S. department of defense in compliance with 49 CFR 177.835, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, up to 75 feet.

(h) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section 65 feet.

(i) When an auto transporter or boat transporter, stinger-steered as defined in subsection (3)(f) of this section, excluding front and rear overhang of load 75 feet.

(j) When an auto transporter or boat transporter, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, excluding front and rear overhang of load 65 feet.

(k) When a truck tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections 75 feet.

(4) The overhang or extension of a load shall not extend:

(a) Beyond the front of a vehicle, more than 4 feet.

(b) Beyond the end of a vehicle, more than 10 feet.

(c) Beyond the left fender of a passenger vehicle, more than 0 feet.

(d) Beyond the right fender of a passenger vehicle, more than 6 inches.

(e) To the front and rear combined of an auto transporter or boat transporter, more than 7 feet.

(5) Noncargo-carrying devices necessary for the safe and efficient opera-

tion of the vehicle, as determined by the board, shall not be included in measurement for length.

(6) No combination shall include more than three (3) units except when a saddlemount combination and the overall length allowed is:

- (a) On the national network 97 feet.
- (b) Other than the national network 75 feet.

(7) Vehicle combinations consisting of not more than four (4) vehicle units with an overall length in excess of the limits of subsection (3) of this section and with an overall combination length not to exceed one hundred fifteen (115) feet, may be operated by permit on routes designated for such operations by the public highway agency having jurisdiction over that highway system, subject to the following restrictions as to lengths of cargo-carrying units:

- (a) Truck tractor and two (2) trailing units 95 feet.
- (b) Truck tractor and three (3) trailing units 95 feet.
- (c) Truck and two (2) trailing units 98 feet.

History.

I.C., § 49-913, as added by 1986, ch. 287, § 3, p. 719; am. 1988, ch. 104, § 1, p. 191; am. and redesign. 1988, ch. 265, § 281, p. 549; am. 1989, ch. 310, § 24, p. 769; am. 1989, ch. 408, § 3, p. 996; am. 1992, ch. 230, § 1, p. 687; am. 1992, ch. 231, § 1, p. 689; am. 1992, ch. 232,

§ 3, p. 691; am. 1993, ch. 123, § 1, p. 313; am. 1993, ch. 334, § 4, p. 1234; am. 1995, ch. 72, § 2, p. 183; am. 2000, ch. 101, § 2, p. 222; am. 2000, ch. 253, § 1, p. 718; am. 2003, ch. 52, § 1, p. 191; am. 2003, ch. 239, § 1, p. 617; am. 2005, ch. 85, § 1, p. 301; am. 2007, ch. 20, § 2, p. 31; am. 2011, ch. 328, § 1, p. 962.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 328, added paragraph (1)(b) and redesignated former

paragraphs (1)(b) and (1)(c) as present (1)(c) and (1)(d).

CHAPTER 12

MOTOR VEHICLE FINANCIAL RESPONSIBILITY

SECTION.

49-1223. Exceptions from chapter.

SECTION.

49-1234. Online insurance verification system — Peace officer duties — Rulemaking. [Effective January 1, 2014.]

49-1224. Self-insurers.

49-1232. Certificate or proof of liability insurance to be carried in motor vehicle.

49-1210. Certificate of insurance as proof. [Null and void, effective June 30, 2014.]

STATUTORY NOTES

Effective Dates.

Section 2 of S.L. 2003, ch. 236, as amended by S.L. 2009, ch. 147, § 1, provides: "The provisions of this act shall be null, void and of no force and effect on and after June 30, 2014. Beginning January 1, 2010, the department shall report to the Senate Transportation

Committee and the House Transportation and Defense Committee on progress that the department is making toward upgrading and implementing the Division of Motor Vehicle's automated system. Such report shall be submitted no later than January 1 of each year."

49-1212. Expressed, permitted and implied provisions of motor vehicle liability policy.**JUDICIAL DECISIONS****ANALYSIS**

Permissive use.

Supplemental insurance.

Permissive Use.

District court properly determined that a vehicle's owner gave the driver permission to drive where the owner's instruction to the driver to drive the vehicle to a gas station and back constituted express permission to operate the vehicle. *Or. Mut. Ins. Co. v. Farm Bureau Mut. Ins. Co.*, 148 Idaho 47, 218 P.3d 391 (2009).

Supplemental Insurance.

The 2007 amendment of subsection (12), prohibiting insurers from providing step-

down limits for household members under an insured's primary motor vehicle policy, is not applicable to supplemental liability (umbrella) policies. *Farm Bureau Mut. Ins. Co. v. Schrock*, 150 Idaho 817, 252 P.3d 98 (2011).

Under subsection (6), an insurer can provide supplemental coverage under an umbrella policy without subjecting itself to the statutory mandates that apply to a motor vehicle liability policy. *Farm Bureau Mut. Ins. Co. v. Schrock*, 150 Idaho 817, 252 P.3d 98 (2011).

49-1223. Exceptions from chapter. — (1) This chapter shall not apply with respect to any motor vehicle owned by the United States, the state, any municipality or other political subdivision.

(2) Sections 49-1212, 49-1229, 49-1230 and 49-1232, Idaho Code, shall not apply to vehicles defined in section 67-7101, Idaho Code, provided that the owner or operator of such vehicle has procured other liability insurance applicable to the use of the vehicle upon public roads consistent with section 49-1428, Idaho Code. Such other liability insurance coverage is not required to meet the policy requirements stated in sections 49-1212 and 49-1229, Idaho Code.

History.

1947, ch. 256, § 33, p. 706; am. and redesig.

1988, ch. 265, § 313, p. 549; am. 2009, ch.

159, § 1, p. 477.

STATUTORY NOTES**Amendments.**

The 2009 amendment, by ch. 159, added the subsection (1) designation and added subsection (2).

Effective Dates.

Section 2 of S.L. 2009, ch. 159 declared an emergency. Approved April 9, 2009.

49-1224. Self-insurers. — (1) Any person in whose name more than twenty-five (25) motor vehicles are registered and titled in Idaho, or engaged in the operation of a railroad, street railway system or public utility subject to the regulation of the public utilities commission irrespective of the number of vehicles registered, may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department.

(2) The department may, in its discretion, issue a certificate of self-insurance and certificate of liability insurance in a form as the department prescribes when the department is satisfied that the person is possessed and will continue to be possessed of ability to pay judgments obtained against

that person upon application, and providing a statement by a certified public accountant attesting the applicant's net worth is five hundred thousand dollars (\$500,000), a list of vehicles and an application fee of seventy dollars (\$70.00) which shall be deposited in the state highway account.

(3) The self-insurer will be required to submit an annual financial statement showing net worth of five hundred thousand dollars (\$500,000), a list of vehicles and a seventy dollar (\$70.00) issue fee to be deposited in the state highway account.

(4) Upon not less than five (5) days' notice and a hearing pursuant to the notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty (30) days after a judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

History.

1947, ch. 256, § 34, p. 706; am. 1974, ch. 27, § 167, p. 811; am. 1982, ch. 95, § 99, p. 185;

am. and redesig. 1988, ch. 265, § 314, p. 549; am. 1992, ch. 115, § 30, p. 345; am. 2009, ch. 331, § 6, p. 947.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 331, in subsections (2) and (3), substituted "seventy dollars (\$70.00)" for "forty dollars (\$40.00)" or similar language.

Legislative Intent.

Section 1 of S.L. 2009, ch. 331 provided: "Legislative Intent. It is the intent of the Legislature that the moneys raised through the increase in fees authorized by the provisions of this act be expended in the following order on and for the following:

"(a) First, moneys raised from the increase in fees should be expended to address any revenue deficit or shortfall that the Division of Motor Vehicles is operating under as of June 30, 2009.

"(b) Second, any moneys remaining after the expenditures relating to subsection (a) of

this section, should be expended on improvements to the Division of Motor Vehicle's technology operations and improvements.

"(c) Third, any moneys remaining after the expenditures relating to subsections (a) and (b) of this section, should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems.

"(d) The department should review approximately every five (5) years the fees provided for in this act and recommend appropriate changes to such fees in the Legislature."

Effective Dates.

Section 9 of S.L. 2009, ch. 331 provided that the act should take effect on and after January 1, 2010.

49-1232. Certificate or proof of liability insurance to be carried in motor vehicle. — (1) A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. No person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-1212, Idaho Code, which was in effect at the time of occurrence of the violation. The certificate or proof of liability insurance required by this section may be produced in either paper or electronic format. Acceptable electronic formats

include display of electronic images on a cellular phone or any other type of portable electronic device.

(2) If the court has not ordered the department to suspend the driving privileges of any person convicted of a violation of the provisions of this section, the department may rescind the suspension action, only if the driver can prove by sufficient evidence that the legally required motor vehicle insurance or other required evidence of financial responsibility was in force and effect at the time of the issuance of the citation. No reinstatement fee will be assessed for rescinding the suspension action under this section.

(3) It is an infraction punishable by a fine of seventy-five dollars (\$75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section or the provisions of section 49-1229 or 49-1428, Idaho Code, within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

History.

I.C., § 49-245, as added by 1979, ch. 150, § 1, p. 463; am. and redesign. 1988, ch. 265, § 320, p. 549; am. 1990, ch. 432, § 5, p. 1198; am. 1998, ch. 275, § 1, p. 906; am. 1998, ch. 423, § 4, p. 1335; am. 1999, ch. 81, § 19, p. 237; am. 2012, ch. 147, § 1, p. 417.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 147, added the last two sentences in subsection (1).

49-1234. Online insurance verification system — Peace officer duties — Rulemaking. [Effective January 1, 2014.] — (1) The department shall establish and maintain an online insurance verification system for motor vehicle insurance coverage required by the provisions of this chapter, subject to the following:

- (a) The department shall consult with representatives of the insurance industry to determine the objectives, details and deadlines relating to the verification system;
- (b) The verification system shall be accessible through the internet, world wide web or a similar proprietary or common carrier electronic system by authorized personnel of the department, department of insurance, courts, law enforcement entities and of any other entity authorized by the department;
- (c) The verification system shall provide for direct inquiry and response between the department and insurance carriers, or such other method of inquiry and response as agreed to by the department and individual insurance carriers, and direct access to insurers' records by personnel authorized by the department;
- (d) The verification system shall be capable of sending inquiries to and receiving responses from insurers for the purpose of verifying current

motor vehicle insurance coverage via web services established by insurers through the internet, world wide web or a similar proprietary or common carrier electronic system, in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration (IICMVA), provided that the department shall promulgate rules to provide insurers an alternative method for reporting motor vehicle insurance policy data rather than establishing web services or utilizing IICMVA's insurance data transfer guide;

(e) With the exception of unplanned system outages, the verification system shall be available twenty-four (24) hours a day to verify the insurance status of any motor vehicle registered in this state through the vehicle's identification number, policy number, registered owner's name or other identifying characteristic or marker; provided that a reasonable amount of downtime may be allotted for planned system outages;

(f) The verification system shall include appropriate provisions, consistent with IICMVA standards, to secure its data against unauthorized access and to maintain a record of all information requests; and

(g) All information exchanged between the department and insurance companies, any database created, all information contained in the verification system and all reports, responses or other information generated for the purposes of the verification system shall be exempt from disclosure as provided in section 9-340C, Idaho Code.

(2) As a condition for writing motor vehicle liability insurance policies in this state, insurance carriers shall cooperate with the department in establishing and maintaining the insurance verification system and shall provide access to motor vehicle insurance policy status information as may be provided in rules promulgated by the department.

(3) Insurers that make good faith efforts to comply with the provisions of this section shall be immune from civil or administrative liability related to this section.

(4) Peace officers shall access information from the online insurance verification system to verify the current validity of motor vehicle liability insurance. If insurance is verified, then the peace officer shall not issue a citation for an infraction violation of the provisions of section 49-1232, Idaho Code.

(5) If an Idaho uniform citation is issued to a person for an infraction violation of the provisions of section 49-1232, Idaho Code, and it is subsequently found that the legally required motor vehicle insurance coverage was in force at the time of the issuance of the citation, then the court shall dismiss the citation without penalty and such citation shall not appear on the person's record.

(6) This section shall not apply to any vehicle insured under commercial motor vehicle coverage and shall not apply to implements of husbandry. As used in this section, "commercial motor vehicle coverage" means an insurance policy that covers a business's vehicles and employees and is approved by the department of insurance.

(7) The department may promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, to carry out the provisions of this section.

History.

I.C., § 49-1234, as added by 2012, ch. 103, § 1, p. 275.

STATUTORY NOTES**Compiler's Notes.**

The abbreviation enclosed in parentheses so appeared in the law as enacted.

the act should take effect on and after January 1, 2014.

Effective Dates.

Section 3 of S.L. 2012, ch. 103 provided that

CHAPTER 14**TRAFFIC — ENFORCEMENT AND GENERAL PROVISIONS****SECTION.**

49-1401A. Texting while driving.

SECTION.

49-1421A. High occupancy vehicle lanes — Penalties — Definitions.

49-1416. Record of traffic cases — Report of convictions to department.

49-1401. Reckless driving.**JUDICIAL DECISIONS****ANALYSIS****Applicability.**

Arrest.

Applicability.

The requirement of unlawfulness under 11 U.S.C.S. § 507(a)(10), which establishes a tenth-level priority for claims for death or injury resulting from the operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated, could not be established by proof of a violation of §§ 18-901 or 18-903 or this section, because intoxication is not a separate element of the of-

fenses covered by those sections. *In re Loader*, 406 B.R. 72 (Bankr. D. Idaho 2009).

Arrest.

Sections 49-1405 and 49-1407 provide officers separate authority to arrest for a misdemeanor traffic violation, including reckless driving. *State v. Jones*, 151 Idaho 943, 265 P.3d 1155 (Ct. App. 2011).

49-1401A. Texting while driving. — (1) As used in this section, "texting" means engaging in the review of, or manual preparation and transmission of, written communications via handheld wireless devices. This definition does not include voice-operated or hands free devices that allow the user to review, prepare and transmit a text message without the use of either hand except to activate, deactivate or initiate a feature or function.

(2) Texting, as that term is defined in subsection (1) of this section, while driving a moving motor vehicle shall constitute an infraction provided this does not apply to voice-operated or hands free devices that allow the user to review, prepare and transmit a text message without the use of either hand except to activate, deactivate or initiate a feature or function. Every person who violates this section shall be guilty of an infraction. A conviction under

this section shall not result in violation point counts as prescribed in section 49-326, Idaho Code. In addition, a conviction under this section shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

History.

I.C., § 49-1401A, as added by 2012, ch. 301, § 1, p. 824.

49-1404. Fleeing or attempting to elude a peace officer — Penalty.**JUDICIAL DECISIONS****ANALYSIS**

De facto seizure.

Multistate flight.

De Facto Seizure.

Police officers' actions, stopping near defendant's parked car and turning on the police vehicles' overhead lights, were a show of authority that would convey to a reasonable person that the officers were ordering him to restrict his movement, creating a de facto seizure when defendant submitted to their authority. *State v. Willoughby*, 147 Idaho 482, 211 P.3d 91 (2009).

Multistate Flight.

Defendant's prosecution for eluding a peace

officer in violation of this section, following a conviction in Washington on the same charge, stemming from a high-speed chase across both states, was not precluded by § 19-315, because the act that was the basis for the charge in Idaho was not the same act that gave rise to charges in Washington, and at no time did the two states share venue over an act which was charged as a public offense. The defendant acted in Idaho, followed by an action in Washington. *State v. Madden*, 147 Idaho 886, 216 P.3d 644 (Ct. App. 2009).

49-1405. Arrests for serious offenses.**JUDICIAL DECISIONS****ANALYSIS**

Arrest.

Probable cause.

Arrest.

Section 49-1407 and this section provide officers separate authority to arrest for a misdemeanor traffic violation, including reckless driving. *State v. Jones*, 151 Idaho 943, 265 P.3d 1155 (Ct. App. 2011).

While § 49-1409 restricts general arresting authority for misdemeanor traffic violations, subsection (1) of this section and § 49-1407 simultaneously grant arresting authority in certain situations. Specifically, arresting authority is granted in this section in relation to seven listed offenses that the state legislature

finds sufficiently serious to justify an arrest. In contrast, § 49-1407 grants officers discretion to arrest when an officer has reasonable grounds to believe a person will disregard the promise to appear in court, where a person is charged with a violation relating to the refusal of a driver to submit a vehicle to an inspection or test, or where a person is charged with the failure or refusal of the driver to submit the vehicle and load to a weigh in or to remove excess weight. *State v. Jones*, 151 Idaho 943, 265 P.3d 1155 (Ct. App. 2011).

RESEARCH REFERENCES

A.L.R. — When does use of taser constitute violation of constitutional rights. 45 A.L.R.6th 1.

49-1407. When peace officer has option to take person before a magistrate.**JUDICIAL DECISIONS****Basis for Arrest.**

Section 49-1405 and this section provide officers separate authority to arrest for a misdemeanor traffic violation, including reckless driving. *State v. Jones*, 151 Idaho 943, 265 P.3d 1155 (Ct. App. 2011).

While § 49-1409 restricts general arresting authority for misdemeanor traffic violations, subsection (1) of § 49-1405 and this section simultaneously grant arresting authority in certain situations. Specifically, arresting authority is granted in § 49-1405 in relation to seven listed offenses that the state legislature

finds sufficiently serious to justify an arrest. In contrast, this section grants officers discretion to arrest when an officer has reasonable grounds to believe a person will disregard the promise to appear in court, where a person is charged with a violation relating to the refusal of a driver to submit a vehicle to an inspection or test, or where a person is charged with the failure or refusal of the driver to submit the vehicle and load to a weigh in or to remove excess weight. *State v. Jones*, 151 Idaho 943, 265 P.3d 1155 (Ct. App. 2011).

49-1409. Issuance of traffic citation.**JUDICIAL DECISIONS****Arrest.**

While this section restricts general arresting authority for misdemeanor traffic violations, subsection (1) of § 49-1405 and § 49-1407 simultaneously grant arresting authority in certain situations. Specifically, arresting authority is granted in § 49-1405 in relation to seven listed offenses that the state legislature finds sufficiently serious to justify an arrest. In contrast, § 49-1407 grants officers discretion to arrest when an officer has

reasonable grounds to believe a person will disregard the promise to appear in court, where a person is charged with a violation relating to the refusal of a driver to submit a vehicle to an inspection or test, or where a person is charged with the failure or refusal of the driver to submit the vehicle and load to a weigh in or to remove excess weight. *State v. Jones*, 151 Idaho 943, 265 P.3d 1155 (Ct. App. 2011).

49-1416. Record of traffic cases — Report of convictions to department. — (1) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, traffic citation, or other legal form of traffic charge deposited with or presented to the court, and shall keep a record of every official action by the court in reference thereto, including a record of every conviction, forfeiture resulting from every traffic complaint or citation deposited with or presented to the court.

(2) Within ten (10) days after a conviction or forfeiture of bail of a person upon a charge of violating any provision of this title or other law regulating the operation of vehicles on highways, the magistrate of the court or clerk of the court of record in which the conviction was had or bail was forfeited shall prepare and immediately forward to the department, either by paper or electronically, an abstract of the record of the court covering the case in which the person was convicted or forfeited bail. The abstract shall be certified by the person required to prepare the abstract to be true and correct. A report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(3) The abstract, whether paper or electronic, shall be made upon a form as prescribed by the supreme court and shall include the name and address of the party charged, the number if any of his driver's license, the

registration number of the motor vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of the fine or forfeiture as applicable.

(4) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(5) Courts shall not mask, defer imposition of judgment, or allow the holder of a commercial driver's license or a person cited while operating a commercial motor vehicle, to enter into a diversion program that would prevent a conviction in any jurisdiction of a violation of a state or local traffic control law, excluding a parking violation, from appearing on the driver's record.

(6) The failure, refusal, or neglect of any judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal.

(7) The department shall keep all abstracts received in either electronic format or on microfilm, and abstracts shall be open to public inspection during reasonable business hours with the exception of personal information which may be exempt from disclosure as otherwise provided by law.

History.

1953, ch. 273, § 188, p. 478; am. 1982, ch. 95, § 74, p. 185; am. and redesig. 1988, ch. 265, § 352, p. 549; am. 1992, ch. 115, § 34, p. 345; am. 1998, ch. 110, § 30, p. 375; am. 2006, ch. 164, § 10, p. 489; am. 2010, ch. 49, § 4, p. 89.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 49, in subsection (5), inserted "or a person cited while operating a commercial motor vehicle" follow-

ing "driver's license" and deleted "committed in any type of motor vehicle" preceding "of a state or local traffic control law."

49-1421A. High occupancy vehicle lanes — Penalties — Definitions. — (1) Except as provided in subsections (2) and (3) of this section, a person shall not drive a vehicle carrying fewer than two (2) persons, including the driver, in a high occupancy vehicle lane at any time the use of the high occupancy vehicle lane is restricted to vehicles carrying two (2) or more persons, including the driver.

(2) A person may drive a motorcycle in a high occupancy vehicle lane at any time regardless of the number of passengers, without penalty.

(3) A person may drive a public transportation vehicle in a high occupancy vehicle lane at any time regardless of the number of passengers, without penalty.

(4) A person may drive an emergency vehicle in a high occupancy vehicle lane regardless of the number of passengers, without penalty, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm or when performing normal patrol duties.

(5) A person may drive an authorized maintenance vehicle in a high occupancy vehicle lane regardless of the number of passengers, without penalty, when necessary to perform maintenance of that lane.

(6) Any violation of the provisions of this section shall be an infraction punishable by a fixed penalty of one hundred dollars (\$100).

(7) For the purposes of this section, the following terms have the following meanings:

(a) "High occupancy vehicle lane" means a designated lane of laned roadway where the use of such designated lane is restricted to vehicles carrying at least the minimum number of persons as provided for in this section and as designated by the director of the Idaho transportation department as indicated on official signs and other official traffic-control devices.

(b) "Public transportation vehicle" means a vehicle that:

(i) Provides a designated public transportation as defined in section 221 of the Americans with disabilities act of 1990 or provides public school transportation (that is, to and from public or private primary, secondary or tertiary schools); and

(ii) Is owned or operated by a public entity, or is operated under a contract with a public entity, or is operated pursuant to a license by the secretary of the United States department of transportation or an agency of the state of Idaho, to provide motorbus or school vehicle transportation services to the public.

(8) The provisions of this section shall apply only in counties with a population less than twenty-five thousand (25,000), according to the most recent census within the state of Idaho, and where such county includes a resort city authorized to approve certain nonproperty taxes pursuant to section 50-1044, Idaho Code.

History.

I.C., § 49-1421A, as added by 2009, ch. 192, § 1, p. 626.

STATUTORY NOTES

Compiler's Notes.

Section 221 of the Americans with disabili-

ties act of 1990, referred to in paragraph (7)(b)(i), is codified as 42 USCS § 12141.

CHAPTER 15

TRAFFIC INFRACTIONS

49-1502. Procedure for processing infraction citations.

JUDICIAL DECISIONS

Cited in: State v. Estes, 148 Idaho 345, 223 P.3d 287 (Ct. App. 2009).

CHAPTER 16

DEALERS AND SALESMEN LICENSING

SECTION.

49-1602. Administration — Powers and duties.
49-1603. Dealer advisory board.
49-1607. Fees — Funds — Expenses — Expiration of licenses.
49-1613. Unlawful acts by licensee.
49-1614. Termination, cancellation or nonrenewal.

SECTION.

49-1626. Payment for delivery preparation and warranty service.
49-1627. Use of dealer and manufacturer license plate.
49-1637. Education requirements for vehicle dealers.

49-1602. Administration — Powers and duties. — The department shall:

(1) Issue, and for reasonable cause shown, refuse to issue an applicant any license authorized under the provisions of this chapter. The department may refuse to issue a license to any applicant, other than a partnership or corporation, if the applicant fails to comply with the terms and provisions of this chapter or the rules of the board, or if the applicant has been convicted of a violation of any of the provisions of this chapter or chapter 5, title 49, or section 49-1418 or chapter 6, title 48, Idaho Code, or of any federal odometer law or regulation. Should the applicant be a partnership or a corporation, the department may refuse to issue a license to the applicant where it determines that one (1) or more of the partners of a partnership, or one (1) or more of the stockholders or officers of a corporation, was previously the holder of a license which was revoked or suspended, and the license revoked never reissued or the suspended license never reinstated, or that one (1) or more of the partners, stockholders, or officers, though not previously the holder of a license, has violated any of the provisions of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(2) For just cause shown, revoke or suspend, on terms, conditions, and for a period of time as the department shall consider fair and just, any license or licenses issued pursuant to the provisions of this chapter. No license shall be revoked or suspended unless it shall be shown that the licensee has violated a provision of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(3) On its own motion, upon the sworn complaint of any person, investigate any suspected or alleged violation by a licensee of any of the provisions of this chapter or of an applicable rule or regulation.

(4) Prescribe forms for applications for licenses and qualifications for an applicant for licensure. Every application for a license shall contain, in addition to other information required by the department, the following:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business. If the applicant is a copartnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street number, of the principal place of business and any other and additional places of business operated and maintained by the applicant in conjunction with the principal place of business.

(c) Copies of any letters of franchise for new vehicles that the applicant has been enfranchised to sell or exchange, and the name or names and addresses of the manufacturer or distributor who has enfranchised the applicant.

(d) Names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(e) A copy of the certificate of assumed business name, if required, shall be filed with the secretary of state.

(f) For a manufacturer's license, the name or names and addresses of each and every distributor, factory branch, and factory representative.

(g) For a salesman's license, certification by the dealer by whom the salesman will be employed, that he has examined the background of the applicant, and to the best of the dealer's knowledge, is qualified to be licensed under the sponsorship of the licensed dealer.

(h) Before a dealer who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, may apply for a renewal of a vehicle dealer's license, he shall provide to the department a certification from an accredited educational system, private vocational school, correspondence school or trade association approved by the department stating that the vehicle dealer has satisfied the four (4) hour continuing education requirements as specified in section 49-1637(1), Idaho Code.

(i) Before any vehicle dealer's license is issued by the department to an applicant who is not licensed with the department as a dealer within the previous twelve (12) calendar months and who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, the applicant shall provide to the department a certification from an accredited educational institution, private vocational school, correspondence school or trade association approved by the department stating that the applicant has satisfactorily completed the prelicensing class or program requirements, including a written examination of material presented, specified in section 49-1637(1), Idaho Code.

(5) Refuse to issue any license under the provisions of this chapter if, upon investigation, the department finds that any information contained in the application is incomplete, incorrect or fictitious.

(6) Require that a dealer's principal place of business, and other locations operated and maintained by him in conjunction with his principal place of business, have erected or posted signs or devices providing information relating to the dealer's name, location and address of the principal place of business, and the number of the license held by the dealer.

(7) Provide for regular meetings of the dealer advisory board, to be held not less frequently than semiannually. Notices of meetings of the advisory board shall be mailed to all members not less than five (5) days prior to the date on which the meeting is to be held.

(8) Inspect, prior to licensing, the principal place of business and other sites or locations as may be operated and maintained by the applicant.

(9) Seek and consider the advisory board's recommendations and comments regarding proposed rules promulgated for the administration of the provisions of this chapter.

(10) Require the attendance of not less than one (1) or more than three (3) advisory board members at all hearings held relating to this chapter.

History.

1965, ch. 290, § 3, 759; am. 1967, ch. 62, § 3, p. 127; am. 1974, ch. 27, § 170, p. 811; am. 1978, ch. 243, § 3, p. 521; am. 1982, ch. 95, § 108, p. 185; am. 1985, ch. 117, § 6, p. 242; am. and redesig. 1988, ch. 265, § 375, p. 549; am. 1991, ch. 272, § 6, p. 686; am. 1998, ch. 392, § 20, p. 1197; am. 2003, ch. 98, § 1, p. 315; am. 2010, ch. 329, § 1, p. 873.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 329, substituted "has satisfactorily completed the prelicensing class or program requirements, including a written examination of material presented" for "has satisfactorily completed the open book examination requirement" near the end of paragraph (4)(i).

Effective Dates.

Section 3 of S.L. 2010, ch. 329 provided that the act should take effect on and after January 1, 2011.

49-1603. Dealer advisory board. — (1) There shall be a dealer advisory board to consist of eleven (11) members to assist and advise the department in the administration of the provisions of this chapter. Five (5) members shall be appointed from licensed dealers selling new vehicles, four (4) members appointed from licensed dealers selling used vehicles, one (1) member shall be appointed from licensed dealers selling new recreational vehicles and one (1) nonvoting member shall be appointed to represent new and used motorcycle and ATV dealers. The governor shall appoint the board with consideration to recommendations of the board of directors of the Idaho Automobile Dealers Association, recommendations of the board of directors of the Recreational Vehicle Dealers Association of Idaho and recommendations of the Independent Dealer Association representing used vehicle dealers. The member who represents the new and used motorcycle and ATV dealers shall be a nonvoting member of the board and shall not have a vote on any question, matter or thing referred to the advisory board by the department. The term of office of each member shall be three (3) years. Vacancies occurring on the board other than by expiration of the term shall be filled for the unexpired term only, and each member of the board shall serve until his successor is appointed and qualified. Members of the advisory board shall be compensated as provided by section 59-509(b), Idaho Code, and payments of compensation shall be paid from the state highway account as part of the expenses of administering the provisions of this chapter. A majority of the members of the advisory board shall constitute a quorum, the presence of which at any meeting duly called by the department shall have full and complete power to act upon and resolve in the name of the advisory board any matter, thing or question referred to it by the depart-

ment, or which by reason of any provisions of this chapter, it has power to determine.

(2) The advisory board on the first day of each July, or as soon thereafter as practicable, shall elect a chairman, vice-chairman and secretary from among its members, who shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the department. The chairman shall preside at all meetings of the advisory board and the secretary shall make a record of their proceedings. All members of the advisory board, except for the nonvoting member who represents the new and used motorcycle and ATV dealers, shall be entitled to vote on any question, matter, or thing which properly comes before it.

History.

1965, ch. 290, § 4, p. 759; am. 1967, ch. 62, § 4, p. 127; am. 1974, ch. 27, § 171, p. 811; am. 1980, ch. 247, § 47, p. 582; am. 1982, ch. 95, § 109, p. 185; am. 1985, ch. 117, § 7, p.

242; am. 1988, ch. 264, § 25, p. 519; am. and redesig. 1988, ch. 265, § 376, p. 549; am. 1989, ch. 310, § 27, p. 769; am. 1991, ch. 272, § 7, p. 686; am. 1996, ch. 135, § 1, p. 460; am. 2010, ch. 221, § 1, p. 494.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 221, in subsection (1), in the first sentence, substituted “eleven (11) members” for “eight (8) members,” in the second sentence, substituted “four (4) members” for “two (2) members” and added “and one (1) nonvoting member shall be

appointed to represent new and used motorcycle and ATV dealers,” and added the fourth sentence; and in the last sentence in subsection (2), inserted “except for the nonvoting member who represents the new and used motorcycle and ATV dealers.”

49-1607. Fees — Funds — Expenses — Expiration of licenses. —

(1) The department shall collect with each application for licensure, the following fees:

- (a) Dealer's, wholesale dealer's and vehicle manufacturer's license, initial application, two hundred dollars (\$200), ten dollars (\$10.00) of which shall be deposited in the county current expense fund. Renewal application, one hundred seventy-five dollars (\$175).
- (b) Vehicle salesman's license, thirty-six dollars (\$36.00), ten dollars (\$10.00) of which shall be deposited in the county current expense fund.
- (c) Distributor-factory branch-distributor branch license, one hundred seventy-five dollars (\$175).
- (d) Representative's license, forty-four dollars (\$44.00).
- (e) To reissue a license, salesman and dealer identification cards or other licensing documents at a dealer's request, not resulting from an error by the department, a fee of eighteen dollars (\$18.00) per document.
- (f) Supplemental lot license or relocated principal place of business, and temporary supplemental lot, forty-four dollars (\$44.00) for license issued to a single dealer. A fee of eighty-eight dollars (\$88.00) for a license issued to a group of dealers for a temporary supplemental lot.

(2) All fees shall be paid over to the state treasurer for credit to the state highway account out of which shall be paid the expenses of the department and the expenses incurred in enforcing the provisions of this chapter.

(3) Dealer licenses, if not suspended or revoked, may be renewed from

year to year upon the payment of the fees specified in this section to accompany applications, and renewals shall be made in accordance with the provisions of section 49-1634, Idaho Code.

- (a) There shall be twelve (12) licensing periods, starting with January and ending in December. A dealer's license shall be in effect from the month of initial licensing through the last day of the next year's calendar month that precedes the month of the initial licensing.
- (b) Any renewal license application received or postmarked after thirty (30) days from the end of the previous year's license period shall be processed as an initial application and initial fees shall be paid.
- (4) Salesman licenses, if not suspended or revoked, shall be valid for three (3) years from the date of issue provided that:

- (a) Employment remains with the sponsoring dealership; and
- (b) The sponsoring dealership has a valid license issued by the department.

Renewals shall be issued in accordance with the provisions of section 49-1635, Idaho Code.

History.

1965, ch. 290, § 8, p. 759; am. 1967, ch. 62, § 6, p. 127; am. 1974, ch. 27, § 174, p. 811; am. 1978, ch. 243, § 4, p. 521; am. 1982, ch. 95, § 111, p. 185; am. 1985, ch. 117, § 10, p.

242; am. 1988, ch. 264, § 27, p. 519; am. and redesig. 1988, ch. 265, § 380, p. 549; am. 1991, ch. 272, § 9, p. 686; am. 1993, ch. 297, § 1, p. 1095; am. 1998, ch. 392, § 21, p. 1197; am. 2009, ch. 331, § 7, p. 947.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 331, increased the fees throughout subsection (1).

Legislative Intent.

Section 1 of S.L. 2009, ch. 331 provided: "Legislative Intent. It is the intent of the Legislature that the moneys raised through the increase in fees authorized by the provisions of this act be expended in the following order on and for the following:

"(a) First, moneys raised from the increase in fees should be expended to address any revenue deficit or shortfall that the Division of Motor Vehicles is operating under as of June 30, 2009.

"(b) Second, any moneys remaining after the expenditures relating to subsection (a) of this section, should be expended on improve-

ments to the Division of Motor Vehicle's technology operations and improvements.

"(c) Third, any moneys remaining after the expenditures relating to subsections (a) and (b) of this section, should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems.

"(d) The department should review approximately every five (5) years the fees provided for in this act and recommend appropriate changes to such fees in the Legislature."

Effective Dates.

Section 9 of S.L. 2009, ch. 331 provided that the act should take effect on and after January 1, 2010.

49-1613. Unlawful acts by licensee. —

(1) It shall be unlawful for the holder of any license issued under the provisions of this chapter to:

- (a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold or furnished by a licensed dealer;
- (b) Violate any of the provisions of this chapter or any of the applicable rules;
- (c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen vehicle;

- (d) Violate any law respecting commerce in vehicles or any lawful rule respecting commerce in vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state;
- (e) Engage in the business for which the dealer is licensed without at all times maintaining a principal place of business;
- (f) Engage in a type of business respecting the selling or exchanging of vehicles for which he is not licensed;
- (g) Knowingly purchase a vehicle which has an altered or removed vehicle identification number plate or alter or remove a vehicle identification number plate;
- (h) Violate any provision of this title or any rules promulgated;
- (i) Violate any provision of the federal motor vehicle safety standards, federal odometer laws or regulations; or
- (j) Display for sale, exchange, or sell any vehicle for which the vehicle dealer does not hold title or consignment agreement or other documentary evidence of his right to the possession of every vehicle in his possession.

(2) It shall be unlawful for any manufacturer or distributor licensed under this chapter to require, attempt to require, coerce, or attempt to coerce, any new vehicle dealer in this state to:

- (a) Order or accept delivery of any new vehicle, part or accessory, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the new vehicle dealer. This paragraph is not intended to modify or supersede any terms or provisions of a franchise requiring dealers to market a representative line of vehicles which the manufacturer or distributor is publicly advertising.
- (b) Order or accept delivery of any new vehicle with special features, accessories or equipment not included in the list price of such vehicles as publicly advertised by the manufacturer or distributor.
- (c) Participate monetarily in an advertising campaign or contest, or to purchase any promotional materials, training materials, showroom or other display decorations or materials at the expense of the dealer.
- (d) Enter into any agreement with the manufacturer or distributor or to do any other act prejudicial to the dealer by threatening to terminate or cancel a franchise or any contractual agreement existing between the dealer and the manufacturer or distributor. This paragraph is not intended to preclude the manufacturer or distributor from insisting on compliance with reasonable terms or provisions of the franchise or other contractual agreement, and notice in good faith to any dealer of the dealer's violation of those terms or provisions shall not constitute a violation of the provisions of this chapter.
- (e) Change the capital structure of the dealer or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards determined by the manufacturer or distributor in accordance with uniformly applied criteria. No change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor. Consent shall not be unreasonably withheld.

(f) Refrain from participation in the management of, investment in, or the acquisition of any other line of new vehicle or related products. This paragraph does not apply unless the dealer maintains a reasonable line of credit for each make or line of new vehicle, and the dealer remains in compliance with any reasonable facilities requirements of the manufacturer or distributor, and no change is made in the principal management of the dealership.

(g) Prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this chapter or to require any controversy between a dealer and a manufacturer, distributor, or representatives, to be referred to any person other than the duly constituted courts of the state or the United States, or to the director, if that referral would be binding upon the dealer.

(h) Either establish or maintain exclusive facilities, personnel, or display space.

(i) Expand facilities without a written guarantee of a sufficient supply of new vehicles so as to justify an expansion, in light of the market and economic conditions.

(j) Make significant modifications to an existing dealership or to construct a new vehicle dealership facility without providing a written guarantee of a sufficient supply of new vehicles so as to justify modification or construction, in light of the market and economic conditions.

(3) It shall be unlawful for any manufacturer or distributor licensed under this chapter to:

(a) Delay, refuse, or fail to deliver new vehicles or new vehicle parts or accessories in a reasonable time, and in reasonable quantity, relative to the dealer's facilities and sales potential in the dealer's relevant market area, after acceptance of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. These provisions are not violated, however, if failure is caused by acts or causes beyond the control of the manufacturer or distributor.

(b) Refuse to disclose to any dealer handling the same line, the manner and mode of distribution of that line within the relevant market area.

(c) Obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to the dealer.

(d) Increase prices of new vehicles which the dealer had ordered for consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a consumer shall constitute evidence of each such order, provided that the vehicle is in fact delivered to that customer. In the event of manufacturer or distributor price reductions or cash rebates paid to the dealer, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail

consumer by the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by the addition to a vehicle of required or optional equipment, or revaluation of the United States dollar, in the case of foreign-make vehicles or components, or an increase in transportation charges due to increased rates imposed by a carrier, shall not be subject to the provisions of this subsection.

(e) Release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or distributor or dealer, any business, financial, or personal information which may be provided from time to time by the dealer to the manufacturer or distributor without the express written consent of the dealer.

(f) Deny any dealer the right of free association with any other dealer for any lawful purpose.

(g) Unfairly compete with a dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer or distributor, in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, in any case not to exceed one (1) year, or in a retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of that dealership on reasonable terms and conditions. Upon a showing of good cause by the manufacturer or distributor to the department, the period of temporary ownership may be extended up to one (1) additional year, resulting in a maximum temporary ownership period of two (2) years.

(h) Unfairly discriminate among its dealers with respect to warranty reimbursement.

(i) Unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a dealer in this state or to condition the sale, transfer, or exchange of a franchise agreement upon site control or an agreement to renovate or make improvements to a facility, unless required by the technology of a motor vehicle being sold at the facility. Provided however, that a voluntary acceptance of such conditions by the dealer in writing including, but not limited to, a written agreement for which the dealer has accepted separate and valuable consideration, shall not constitute a violation.

(j) Fail to respond in writing to a request for consent as specified in paragraph (i) of this section [subsection] within sixty (60) days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for those purposes and containing the required information. Failure to respond shall be deemed to be consent to the request.

(k) Prevent or attempt to prevent, by contract or otherwise, any dealer from changing the executive management control of the dealership unless

the manufacturer or distributor, having the burden of proof, can show that the change of executive management will result in executive management or control by a person or persons who are not of good moral character or who do not meet reasonable, preexisting and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards. Where the manufacturer or distributor rejects a proposed change in executive management control, the manufacturer or distributor shall give written notice of his reasons to the dealer within sixty (60) days of notice to the manufacturer or distributor by the dealer of the proposed change; otherwise, the change in the executive management of the dealership shall be presumptively considered approved.

(l) Terminate, cancel or fail to renew any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer or distributor relied in the granting of the franchise.

(m) Prevent or attempt to prevent the dealer, by written instrument or otherwise, from either receiving the fair market value of the dealership in a sale transaction, or from transferring the dealership to a spouse or legal heir, as specified in this chapter.

(n) Engage in any predatory practice or discrimination against any dealer.

(o) Resort to or to use any false or misleading advertisement in the conducting of his business as a manufacturer or distributor in this state.

(p) Make any false or misleading statement, either directly or through any agent or employee, in order to induce any dealer to enter into any agreement or franchise, or to take any action which is prejudicial to that dealer or his business.

(q) Require or coerce dealers to participate in local or national advertising campaigns or contests or to require or coerce dealers to purchase promotional or display materials.

(r) Charge back, deny motor vehicle allocation, withhold payments, or take other actions against a dealer, or to condition a franchise agreement, or renewal of a franchise agreement, or to condition sales, service, parts, or finance incentives upon site control or an agreement to renovate or make improvements to a facility unless required by the technology of a motor vehicle being sold at the facility. Provided however, that a voluntary acceptance of such conditions by the dealer in writing including, but not limited to, a written agreement for which the dealer has accepted separate and valuable consideration, shall not constitute a violation.

(s) Charge back, deny motor vehicle allocation, withhold payments, or take other actions against a motor vehicle dealer if a motor vehicle sold by the motor vehicle dealer is exported from Idaho or the dealer's assigned area of responsibility unless the manufacturer, distributor, or manufacturer representative proves that the motor vehicle dealer knew or reasonably should have known a motor vehicle was intended to be exported, which shall operate as a rebuttable presumption that the motor vehicle dealer did not have such knowledge. This paragraph does not

apply if exporting of motor vehicles outside of the state of Idaho is provided for by the manufacturer or distributor.

(4) It is unlawful for any manufacturer or distributor or any officer, agent or representative to coerce, or attempt to coerce, any dealer in this state to offer to sell or sell any extended service contract or extended maintenance plan that is offered, sold, backed by or sponsored by the manufacturer or distributor or to sell, assign or transfer any retail installment sales contract, obtained by the dealer in connection with the sale by him in this state of new vehicles, manufactured or sold by the manufacturer or distributor, to a specified finance company or class of such companies, or to any other specified person, by any of the acts or means set forth, namely by:

- (a) Any statement, suggestion, promise or threat that the manufacturer or distributor will, in any manner, benefit or injure the dealer, whether the statement, suggestion, threat or promise is express or implied or made directly or indirectly;
- (b) Any act that will benefit or injure the dealer;
- (c) Any contract, or any express or implied offer of contract, made directly or indirectly to a dealer for handling new vehicles, on the condition that the dealer shall offer to sell or sell any extended service contract or extended maintenance plan that is offered, sold, backed by, or sponsored by the manufacturer or distributor or sell, assign or transfer his retail installment sales contract in this state to a specified finance company or class of such companies, or to any other specified person; or
- (d) Any express or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to offer to sell or sell any extended service contract or extended maintenance plan that is offered, sold, backed by, or sponsored by the manufacturer or distributor or to sell, assign or transfer any of his retail sales contracts, in this state, on new vehicles manufactured or sold by that manufacturer or distributor to a finance company or class of companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and a finance company or companies, or a specified person or persons.
- (e) Nothing contained in this subsection shall prohibit a manufacturer or distributor from offering or providing incentive benefits or bonus programs to a retail motor vehicle dealer or prospective retail motor vehicle dealer in this state who makes the voluntary decision to offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed or sponsored by the manufacturer or distributor to sell, assign or transfer any retail installment sale or lease by him in this state of motor vehicles manufactured or sold by the manufacturer or distributor to a specified finance company or leasing company controlled by or affiliated with the manufacturer or distributor.

Any statement, threats, promises, acts, contracts or offers of contracts, when the effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition, against the policy of this state, and are unlawful.

(5) It is unlawful for any manufacturer or distributor or agent or employee of a manufacturer or distributor to use a written instrument,

agreement, or waiver to attempt to nullify any of the provisions of this section, and such agreement, written instrument or waiver shall be null and void.

(6) It shall be unlawful, directly or indirectly, to impose unreasonable restrictions on the dealer relative to the sale, transfer, right to renew, termination discipline, noncompetition covenants, site control (whether by sublease, collateral pledge of lease, or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

(7) The provisions of this chapter shall apply to all written franchise agreements between a manufacturer or distributor and a dealer, including the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contract, advertising contract, construction or installation contract, servicing contracts and all other agreements where the manufacturer or distributor has any direct or indirect interest.

History.

1965, ch. 290, § 14, p. 759; am. 1967, ch. 62, § 12, p. 127; am. 1970, ch. 19, § 3, p. 34; am. 1974, ch. 27, § 178, p. 811; am. 1975, ch. 17, § 1, p. 22; am. 1978, ch. 243, § 6, p. 521; am.

1985, ch. 117, § 16, p. 242; am. 1988, ch. 264, § 29, p. 519; am. and redesig. 1988, ch. 265, § 386, p. 549; am. 1991, ch. 272, § 14, p. 686; am. 1994, ch. 317, § 1, p. 1015; am. 2005, ch. 144, § 1, p. 451; am. 2011, ch. 327, § 3, p. 952.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 327, inserted "or distributor" following "manufacturer" throughout the section; in paragraph (3)(g), inserted "in any case not to exceed one (1) year" in the first sentence and added the last sentence; in paragraph (3)(i), added "or to condition the sale, transfer, or exchange of a franchise agreement upon site control or an agreement to renovate or make improvements to a facility, unless required by the technology of a motor vehicle being sold at the facility" at the end of the first sentence and

added the last sentence; added paragraphs (3)(r) and (3)(s); in subsection (4), inserted "to offer to sell or sell any extended service contract or extended maintenance plan that is offered, sold, backed by or sponsored by the manufacturer or distributor or" to the introductory paragraph and in paragraphs (c) and (d), and added paragraph (e).

Compiler's Notes.

The bracketed insertion in paragraph (3)(j) was inserted by the compiler to clarify the internal reference.

49-1614. Termination, cancellation or nonrenewal. — (1) Notwithstanding the terms, provisions or conditions of any franchise agreement, or any waiver, a manufacturer shall not cancel, terminate or fail to renew any franchise agreement with a dealer unless the manufacturer has satisfied the notice requirement of subsection (2) of this section and has good cause for cancellation, termination or nonrenewal.

(2) Notwithstanding the terms, provisions or conditions of any franchise agreement prior to the termination, cancellation or nonrenewal of any franchise agreement, the manufacturer shall furnish notification of termination, cancellation or nonrenewal to the department and the dealer:

- (a) In the manner described in subsection (3)(b) of this section; and
- (b) Not less than ninety (90) days prior to the effective date of termination, cancellation or nonrenewal; or

(c) Not less than fifteen (15) days prior to the effective date of termination, cancellation or nonrenewal with respect to any of the following:

- (i) Insolvency of the dealership, or filing of any petition by or against the dealership under any bankruptcy or receivership law;
- (ii) Failure of the dealership to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the dealer;
- (iii) Conviction of the dealer, or any owner or his operator, resulting in imprisonment exceeding thirty (30) days;
- (iv) Revocation of any license which the dealer is required to have to operate a dealership; and

(d) Not less than one hundred eighty (180) days prior to the effective date of termination or cancellation, where the manufacturer is discontinuing the sale of the product line.

(3) Notification under this section shall be in writing, by certified mail or personally delivered to the dealer, and shall contain a statement of intention to terminate, cancel or not to renew the franchise agreement, and a statement of the reasons for and the date on which termination, cancellation or nonrenewal takes effect.

(4) Notwithstanding the terms, provisions or conditions of any franchise agreement or of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when there is a failure by the dealer to comply with a provision of the franchise agreement, where the provision is both reasonable and of material significance to the franchise agreement relationship, and provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days prior to termination, cancellation or nonrenewal. A protest may be filed in accordance with the provisions of section 49-1617, Idaho Code.

(5) Notwithstanding any franchise agreement, the following shall not constitute good cause for a termination, cancellation or nonrenewal of a franchise agreement: the fact that the dealer owns, has an investment in, participates in the management of or holds a franchise agreement for the sale or service of another make or line of motor vehicles; or that the dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the manufacturer or distributor which existed prior to January 1, 1997; or is approved in writing by the manufacturer.

(6) The manufacturer shall have the burden of proof under this section concerning the issue of good cause, which shall include, but not be limited to, termination, nonrenewal or cancellation of any franchise agreement by the manufacturer for insolvency, license revocation, conviction of a felony, fraud by a dealer or failure by a dealer to comply with a provision of the franchise agreement, where the provision is both reasonable and of material significance to the franchise agreement relationship.

(7) Notwithstanding the terms, provisions or conditions of any franchise agreement, other written contract or agreement or any waiver, a manufacturer shall not cancel, terminate or fail to renew any franchise agreement

with a dealer unless the manufacturer has satisfied the requirements of this section.

(8) Upon the termination, cancellation, or nonrenewal of any franchise agreement by the manufacturer or dealer, the manufacturer shall repurchase from the dealer any new, undamaged and unused motor vehicles of the current model year and previous model year. Any new and unused motor vehicle repurchased by the manufacturer shall be repurchased at the net cost to the dealer. Net cost means the dealer's cost for a new, undamaged, unsold, and complete motor vehicle of the current model year or any previous model year acquired by the dealer within twelve (12) months of the date of termination and in a dealer's inventory purchased from the manufacturer or acquired from another dealer of the same line make in the ordinary course of business:

- (a) Plus any charges by the manufacturer, distributor, or representative for distribution, delivery and taxes;
- (b) Plus the dealer's cost of any manufacturer approved accessories added on the vehicle, except only those recreational vehicle accessories that are listed in the manufacturer's wholesale product literature as options for that vehicle shall be repurchased; and
- (c) Less all allowances paid to the dealer by the manufacturer, distributor or representative.

(9)(a) Upon the termination, cancellation, or nonrenewal of any franchise agreement by the manufacturer or dealer, the manufacturer shall repurchase from the dealer the following:

- (i) Any unused, undamaged, and unsold parts which have been acquired from the manufacturer, provided such parts are currently offered for sale by the manufacturer in its current parts catalog and are in salable condition. Such parts shall be repurchased by the manufacturer at the current catalog price, less any applicable discount;
- (ii) Any supplies, equipment, and furnishings, including manufacturer or line make signs, required by and purchased from the manufacturer or its approved source within three (3) years of the date of termination, cancellation, or nonrenewal; and
- (iii) Any special tools or other equipment purchased from the manufacturer within three (3) years of the date of termination, cancellation, or nonrenewal.

(b) Except as provided in paragraph (a)(i) of this subsection, compensation shall be the fair market value on the effective date of the termination, cancellation, or nonrenewal.

(10) The repurchase of any item under this section shall be accomplished within ninety (90) days of the effective date of the termination, cancellation, or nonrenewal, provided the dealer has clear title to the inventory and other items, or is able to convey such title to the manufacturer and does convey or transfer title and possession of the inventory and other items to the manufacturer.

(11) If the repurchase of any item under this section is subject to a security interest, the manufacturer may make payment jointly to the dealer and to the holder of the security interest.

(12) This section shall not apply to a nonrenewal or termination that is implemented as a result of the sale of the assets or stock of the motor vehicle dealer.

(13) In the event the manufacturer does not pay the dealer the amounts due under this section and a court of competent jurisdiction finds the manufacturer in violation of this section, the manufacturer shall, in addition to any amounts due, pay the dealer:

(a) Interest on the amount due computed at the rate applicable to a judgment of a court; and

(b) Reasonable attorney's fees and costs.

(14) Within ninety (90) days of the termination, cancellation, or nonrenewal of any franchise agreement by the manufacturer for the failure of a dealer to meet sales and service performance obligations or due to elimination, cessation or termination of a line make, the manufacturer shall commence to reimburse the dealer for one (1) year of the dealer's cost to rent or lease the dealership's facility or location or for the unexpired term of the lease or rental period, whichever is less, or, if the dealer owns the facility or location, for the equivalent of one (1) year of the reasonable rental value of the facilities or location as determined by an Idaho licensed commercial real estate appraiser. If more than one (1) franchise agreement is being terminated, canceled, or not renewed, the reimbursement shall be prorated equally among the different manufacturers. However, if a franchise agreement is terminated, canceled, or not renewed but the dealer continues in business at the same location under a different franchise agreement, the reimbursement required by this subsection shall not be required to be paid. In addition, any reimbursement due under this subsection shall be reduced by any amount received by the dealer by virtue of the dealer leasing, subleasing, or selling the facilities or location during the year immediately following the termination, cancellation, or nonrenewal.

(15) All procedures and protections afforded to a motor vehicle dealer under this section shall be available to a recreational vehicle dealer. However, the remedies afforded under this section shall only apply to recreational vehicle dealers where the manufacturer of recreational vehicles as defined in section 49-119, Idaho Code, terminates or fails to renew any franchise agreement without good cause.

History.

I.C. § 49-2415, as added by 1985, ch. 117, § 17, p. 242; am. and redesig. 1988, ch. 265,

§ 387, p. 549; am. 1997, ch. 312, § 1, p. 923; am. 2009, ch. 153, § 1, p. 445.

STATUTORY NOTES**Amendments.**

The 2009 amendment, by ch. 153, rewrote the section to the extent that a detailed comparison is impracticable.

tion, the reference in paragraph (2)(a) should be to subsection (3) of this section.

Effective Dates.

Section 2 of S.L. 2009, ch. 153 declared an emergency. Approved April 9, 2009.

Compiler's Notes.

Following the 2009 amendment of this sec-

49-1626. Payment for delivery preparation and warranty service. — (1) Each manufacturer or distributor shall specify in writing to each of its dealers licensed in this state, the dealer's obligations for predelivery preparation and warranty service on its products, compensate the dealer for service required of the dealer by the manufacturer or distributor, provide the dealer a schedule of compensation to be paid the dealer for parts, work and service in connection with its products, and the time allowance for the performance of that work and service.

(2) In no event shall a schedule of compensation fail to include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed.

(3) It is unlawful for a new vehicle manufacturer or distributor to fail to perform any warranty obligations or to fail to include in written notices of factory recalls to new vehicle owners and dealers, the expected date by which necessary parts and equipment will be available to dealers for the correction of those defects, or to fail to compensate any of the dealers in this state for repairs affected by recall.

(4) A vehicle dealer may submit a warranty claim to a manufacturer or distributor if a warranty defect is identified and documented prior to the expiration of a manufacturer's or distributor's warranty:

- (a) While a franchise agreement is in effect; or
- (b) After the termination of a franchise agreement if the claim is for work performed while the franchise agreement was in effect.

(5) All claims made by dealers pursuant to this section for labor and parts shall be paid within thirty (30) days following their approval. All claims shall be either approved or disapproved within thirty (30) days after their receipt, on forms and in the manner specified by the manufacturer or distributor, and any claim not specifically disapproved in writing within thirty (30) days after receipt shall be construed to be approved and payment must follow within thirty (30) days.

(6) A dealer whose claim has been denied due to failure to comply with a specific claim processing requirement, such as a clerical error or other administrative technicality that does not put into question the legitimacy of the claim, may resubmit the corrected claim as provided for in subsection (7) of this section.

(7) A dealer shall have thirty (30) days from the date of notification by a manufacturer or distributor of a denial of a claim or a charge-back to the dealer to resubmit a claim for payment or compensation if the claim was denied for any of the reasons described in subsection (6) of this section, whether the charge-back was a direct or an indirect transaction, unless a longer period of time is provided for by the manufacturer or distributor.

(8) Notwithstanding the terms of a franchise agreement or other contract with a dealer and except as provided in subsection (9) of this section, after the expiration of one (1) year after the date of payment of the warranty claim, a manufacturer or distributor shall not audit the records of a motor vehicle dealer to determine compliance with the terms of a warranty claim. Provided however, that the manufacturer or distributor may audit the

dealer for fraudulent claims during any period for which an action for fraud may be commenced.

(9) A manufacturer or distributor may make charge backs to a motor vehicle dealer if, after completion of an audit of the dealer's records, the manufacturer or distributor can show, by a preponderance of the evidence, that:

- (a) With respect to a warranty claim, the repair work was improperly performed in a substandard manner or was unnecessary; or
- (b) The claim is unsubstantiated in accordance with the manufacturer [manufacturer's] or distributor's requirements.

(10) Nothing in subsection (8) or (9) of this section shall prevent a manufacturer or distributor from instituting a legal action for fraud as provided for in section 5-218, Idaho Code.

(11) The schedule of compensation for warranty parts and labor shall not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty parts and labor; provided that such dealer's retail rate is not unreasonable when compared with other motor vehicle franchises from the same or competitive lines for similar merchandise or services in the geographic area in which the dealer is engaged in business.

(a) For purposes of determining the schedule of compensation paid to a dealer by the manufacturer or distributor, the following shall not be considered in determining amounts charged by the dealer to retail customers:

- (i) Menu-priced parts or services;
- (ii) Repairs for manufacturer or distributor special events;
- (iii) Repairs covered by any insurance or service contract;
- (iv) Vehicle emission or safety inspections required by federal, state or local governments;
- (v) Parts sold at wholesale or repairs performed at wholesale, which shall include any sale or service to a fleet of vehicles;
- (vi) Engine assemblies and transmission assemblies;
- (vii) Routine maintenance not covered under any retail customer warranty including, but not necessarily limited to, maintenance involving fluids, filters and belts not provided in the course of repairs;
- (viii) Nuts, bolts, fasteners and similar items that do not have an individual part number;
- (ix) Tires; or
- (x) Vehicle reconditioning.

(b) The dealer shall establish their schedule of compensation under the provisions of this section by submitting to the manufacturer or distributor one hundred (100) sequential customer paid service repair orders or ninety (90) days of customer paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty (180) days before the submission of such customer paid service repair orders and declaring the schedule of compensation. The new schedule of compensation shall take effect within ninety (90) days after the initial submission to the manufacturer or distributor and shall be presumed to be fair and reasonable. However, within thirty (30) days following receipt of the

declared schedule of compensation from the dealer, the manufacturer or distributor may make reasonable requests for additional information supporting the declared schedule of compensation. The ninety (90) day time frame in which the manufacturer or distributor shall make the schedule of compensation effective shall commence following receipt from the dealer of any reasonably requested supporting information. No manufacturer or distributor shall require a motor vehicle dealer to establish a schedule of compensation by any other methodology or require supportive information that is unduly burdensome or time consuming to provide including, but not limited to, part by part or transaction by transaction calculations. The dealer shall not request a change in the schedule of compensation more than once every twelve (12) months.

(12) It is unlawful for a manufacturer or distributor or subsidiary to own, operate or control, either directly or indirectly, a motor vehicle warranty or service facility located in this state except on an emergency or interim basis or if no qualified applicant has applied for appointment as a dealer in a market previously served by a motor vehicle dealer of that manufacturer or distributor's line make except as provided for in section 49-1613(3)(g), Idaho Code.

(13) A manufacturer [or distributor] may not otherwise recover all or any portion of its costs for compensating its dealers licensed in this state for warranty parts and labor either by reduction in the amount due to the dealer or by separate charge, surcharge or other imposition; provided however, a manufacturer or distributor shall not be prohibited from increasing prices for vehicles or parts in the normal course of business.

(14) All procedures and protections afforded to a motor vehicle dealer under the provisions of this section shall be available to a recreational vehicle dealer. However, the schedule of compensation afforded under subsection (11) of this section shall not apply to compensation for parts, systems, fixtures, appliances, furnishings, accessories and features of a recreational vehicle that are designed, used and maintained primarily for nonvehicular residential purposes.

History.

I.C., § 49-2427, as added by 1985, ch. 117, § 29, p. 242; am. and redesig. 1988, ch. 265,

§ 399, p. 549; am. 1997, ch. 312, § 2, p. 923; am. 2011, ch. 327, § 4, p. 952.

STATUTORY NOTES**Amendments.**

The 2011 amendment, by ch. 327, inserted "or distributor" following "manufacturer" throughout the section; added subsection (4), redesignating former subsection (4) as subsection (5); deleted the former second sentence in subsection (5), which read "The manufacturer retains the right to audit claims and to charge the dealer for unsubstantiated, incorrect, or false claims for a period of one (1) year following payment. Provided however, that the manufacturer may audit and charge

the dealer for fraudulent claims during any period for which an action for fraud may be commenced"; added subsections (6) through (14).

Compiler's Notes.

The bracketed insertion in paragraph (9)(b) was added by the compiler to supply the probable intended word.

The bracketed insertion in subsection (13) was added by the compiler to provide consistent phraseology to the 2011 amendment.

49-1627. Use of dealer and manufacturer license plate. — (1) Any dealer or manufacturer license plate issued may, during the calendar year for which issued, be transferred from one (1) vehicle to another owned or operated by such manufacturer or dealer, in pursuance of his business as a manufacturer or dealer.

(2) Dealer plates shall not be used on vehicles under the following circumstances:

- (a) On work or service vehicles not held in stock for sale;
- (b) On leased or rented vehicles owned by the licensed manufacturer or dealer;
- (c) On a laden vehicle designed for transportation of cargo, unless the manufacturer or dealer has complied with section 49-434, Idaho Code, except as provided in subsection (3) of this section;
- (d) On vehicles which have been sold;
- (e) On vehicles used by the licensee for furtherance of another business;
- (f) On vehicles owned by a licensed wholesaler used for personal use;
- (g) On vehicles owned by a licensed wholesaler, operated by their licensed salesmen, used for personal use.

(3) Dealer and manufacturer plates may be used on laden vehicles operated by the manufacturer, dealer or his licensed vehicle salesman, in connection with the manufacturer's or dealer's business. A dealer plate may be used on a laden trailer in connection with a manufacturer's or dealer's business to move vehicles or trailers from a manufacturer to a dealer, from dealership to dealership or from a dealership to off-site locations in promotion of the dealer's business as long as the power unit is properly licensed under chapter 4, title 49, Idaho Code. A dealer plate may be used on a vehicle assigned for personal use on a full-time basis to the dealer, or licensed full-time vehicle salesman. This personal use exception applies only to the manufacturer, dealer, or licensed full-time vehicle salesman personally, and any other persons, including members of their families, are excluded. A prospective purchaser of a vehicle may have possession of the vehicle with a dealer plate for not more than ninety-six (96) hours or may operate the vehicle when accompanied by the manufacturer, dealer or a licensed vehicle salesman.

(4) Licensed part-time vehicle salesmen may use a dealer plate on a vehicle that is offered for sale only to demonstrate the vehicle to a purchaser, but not for personal use. Other employees or authorized persons, not licensed as a vehicle salesman, may use a dealer plate when testing the mechanical operation of a vehicle or for the necessary operation in pursuance of the dealer's business, including the delivery and pickup of vehicles owned or purchased by that manufacturer or dealer.

(5) Laden dealer and manufacturer plates may be displayed on any power unit in the dealer's or manufacturer's inventory to operate vehicles laden with vehicles that are in the dealer's or manufacturer's inventory in pursuance of the dealer's or manufacturer's business. Such use shall be limited to moving vehicles from a manufacturer to a dealer, from dealership to dealership, or from a dealership to off-site locations in furtherance of the dealer's business. Such uses may include travel to licensed temporary

supplemental lot locations, to and from auctions or to a new licensed location.

(a) Laden dealer and manufacturer plates shall not be used for personal use by the dealer or manufacturer or a licensed full-time or part-time salesman of the dealership.

(b) Laden dealer and manufacturer plates shall be valid up to a maximum of twenty-six thousand (26,000) pounds combined gross vehicle weight.

(c) Fees will be as provided in section 49-434(1), Idaho Code, for commercial vehicles at a weight limit of twenty-six thousand (26,000) pounds combined gross vehicle weight.

(d) The dealer or manufacturer may increase the weight limit through the purchase of a temporary weight increase permit, as provided for in section 49-432(2), Idaho Code.

(6) Vehicle manufacturers and dealers shall keep a written record of the vehicles upon which dealer's number plates are used for personal use on a full-time basis, and the time during which each plate is used. The record shall be open to inspection by any peace officer or any officer or employee of the department.

(7) No manufacturer or dealer shall cause or permit any vehicle owned by them to be operated or moved upon a public highway without displaying upon the vehicle a license plate issued to that person, either under the provisions of this section or section 49-428, Idaho Code, except as otherwise authorized in section 49-431, Idaho Code.

History.

I.C. § 49-2428, as added by 1985, ch. 117, § 30, p. 242; am. and redesignated 1988, ch. 265, § 400, p. 549; am. 2006, ch. 223, § 1, p. 664; am. 2011, ch. 72, § 3, p. 152.

STATUTORY NOTES

Amendments.

The 2011 amendment, by ch. 72, added subsection (5) and redesignated former sub-

sections (5) and (6) as present subsections (6) and (7).

49-1637. Education requirements for vehicle dealers. — (1) Except as provided in subsection (2) of this section, the following continuing education requirements shall apply to a vehicle dealer for an initial dealer's license and for the annual renewal, as provided in sections 49-1607(3) and 49-1634, Idaho Code, of a dealer's license:

(a) An applicant for an annual renewal of a dealer's license must complete a four (4) hour education program as described in subsection (3) of this section prior to submitting a renewal application for a vehicle or vessel dealer license.

(b) An applicant requesting an initial vehicle or vessel dealer's license shall be required to provide certification that he has completed a department approved prelicensing class or program, including an examination on the materials that were presented prior to submitting a license application.

(2) The education requirements of subsection (1) of this section do not

apply to an applicant for a full-time or part-time vehicle salesman's license, manufacturer's license, distributor's license or wholesale dealer's license. The following applicants are also exempt from the provisions of subsection (1) of this section:

- (a) A vehicle dealer of nationally advertised and recognized new motor vehicles or vessels; and
- (b) A franchise dealer of new recreational vehicles, new motorcycles, new all-terrain vehicles, new snowmobiles or new vessels.

(3) The continuing education programs and prelicensing class requirements required in subsection (1) of this section shall be developed with input from motor vehicle industry organizations including, but not limited to, the Idaho independent automobile dealers association, and shall be approved by the department:

- (a) Prelicensing classes shall consist of eight (8) hours of instruction or as otherwise approved by the department, which shall include the written examination.
- (b) Fees applicable to the prelicensing class shall not exceed three hundred fifty dollars (\$350).
- (c) Fees applicable to the dealer education program shall not exceed two hundred dollars (\$200).
- (d) Any provider as approved by the department shall make the dealer education programs and prelicensing classes available on a monthly basis, at a minimum.

(4) The continuing education programs and the prelicensing class/programs required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations, provided that the continuing education program and prelicensing class/programs have been approved by the department as required in subsection (3) of this section.

(5) The department may promulgate rules as necessary to implement the provisions of this section.

History.

I.C., § 49-1637, as added by 2003, ch. 98, § 2, p. 315; am. 2010, ch. 329, § 2, p. 873.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 329, in paragraph (1)(b), substituted "license shall be required to provide certification that he has completed a department approved prelicensing class or program, including an examination on the materials that were presented" for "license shall be required to pass a comprehensive open book examination"; in the introductory paragraph in subsection (3),

substituted "prelicensing class requirements" for "written open book examination"; added paragraphs (3)(a) through (3)(d); and in subsection (4), twice inserted "and the prelicensing class/programs" or similar language.

Effective Dates.

Section 3 of S.L. 2010, ch. 329 provided that the act should take effect on and after January 1, 2011.

CHAPTER 18

TOWING AND STORAGE OF MOTOR VEHICLES

SECTION.

49-1802. Presumption.

49-1803. Removal of stolen vehicles.

49-1803A. Removal of accidents — Driver arrests — Vehicles found under extraordinary circumstances.

49-1804. Removal of abandoned vehicles by authorized officer.

49-1807. Charges not otherwise provided for.

49-1807A. Unauthorized removal of vehicle — Refusal to release vehicle.

49-1807B. Idaho state police authorized tow list — Background checks.

49-1808. Storage of vehicle.

SECTION.

49-1809. Request by possessory lienholder for names and addresses of interested persons — Notice of sale to satisfy lien.

49-1811. Sale of unclaimed vehicles.

49-1812. Claiming of vehicles.

49-1813. Removal without payment prohibited.

49-1814. Disposition of low-valued vehicles.

49-1815. Disposition of low-valued vehicles — Procedure.

49-1816. Disposition of low-valued vehicle.

49-1819. Provisions of sections uniform throughout state.

49-1802. Presumption. — (1) The abandonment of any vehicle shall create a *prima facie* presumption that the last registered owner of record is responsible for the abandonment and is thereby liable for the costs incurred in the removal, storage and disposition of the vehicle, less any amount received from the disposition of the vehicle.

(2) The owner of any vehicle removed under extraordinary circumstances, or under the authority of section 49-662, Idaho Code, is presumed responsible for the vehicle and is thereby liable for the costs incurred in the removal, storage and disposition of the vehicle, less any amounts received from the disposition of the vehicle.

(3) If a vehicle is found abandoned or under extraordinary circumstances and is removed at the direction of any authorized officer, and is not redeemed by the owner or lienholder within seven (7) days of the tow, the last registered owner of record is guilty of a traffic infraction, unless the owner has filed a release of liability with the department according to section 49-526, Idaho Code, in which case the transferee shown on the release of liability shall be guilty of a traffic infraction.

History.

I.C. § 49-3604, as added by 1982, ch. 267, § 1, p. 690; am. and redesignated 1988, ch. 265,

§ 420, p. 549; am. 2002, ch. 366, § 3, p. 1032; am. 2010, ch. 171, § 3, p. 348.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 171, inserted

“or under the authority of section 49-662, Idaho Code” in subsection (2).

49-1803. Removal of stolen vehicles. — (1) Any authorized officer, upon discovery of a vehicle reported as stolen and not recovered, may take the vehicle into custody and cause it to be taken to and stored in a suitable place, or may cause the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the vehicle owner unless otherwise determined according to the provisions of section 49-1805(5), Idaho Code.

(2) Within forty-eight (48) hours, excluding weekends and holidays, of the time that the vehicle is taken into custody and is stored pursuant to this chapter, the agency of which the officer is an agent shall give written notice by certified mail to the registered and legal owners of the vehicle, if known. The notice shall state:

- (a) That the vehicle has been taken into custody and stored; and
- (b) The location of storage of the vehicle.

(3) The public agency by which the officer is employed shall appraise the vehicle and shall include in the notice, identification of the officer; location of the vehicle; a description of the vehicle including make, year model, identification number, license number, state of registration and the statutory authority for storage.

History.

I.C., § 49-3606, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 4, p. 351; am.

and redesign. 1988, ch. 265, § 421, p. 549; am. 1998, ch. 392, § 26, p. 1197; am. 2010, ch. 171, § 4, p. 348.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 171, in the section heading, deleted "or vehicles found under emergency circumstances" from the end; in subsection (1), deleted "or any vehicle

involved in any extraordinary circumstances" following "not recovered"; and in the first sentence in subsection (2), inserted "excluding weekends and holidays."

49-1803A. Removal of accidents — Driver arrests — Vehicles found under extraordinary circumstances. — (1) Any authorized officer directing the removal of a vehicle under the authority of this chapter, or the provisions of section 49-662, Idaho Code, as the result of an accident, the driver being arrested or extraordinary circumstances, may cause the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the registered owner, unless the registered owner has filed a release of liability according to the provisions of section 49-526, Idaho Code, in which case the purchaser or other transferee recorded on the release of liability statement shall be presumed responsible and liable.

(2) At the time of removal, the authorized officer shall complete a notice form containing, but not limited to, the following:

- (a) Name and addresses of registered owner and lienholder;
- (b) Complete vehicle description, including license plate number and vehicle identification number;
- (c) Date, time and reason for tow;
- (d) Law enforcement agency directing tow and case number assigned;
- (e) Appraisal value of vehicle and daily storage rate;
- (f) Authorized officer name or badge number;
- (g) Name, address and telephone number of towing company;
- (h) Signature of tow truck operator taking receipt of vehicle and contents.

(3) A copy of this notice shall be provided to the legal or registered owner at the scene, or may be mailed first class mail within ninety-six (96) hours, excluding weekends and holidays. This notification shall be in addition to all notices required for vehicle disposal procedures contained in this chapter.

History.

I.C., § 49-1803A, as added by 2010, ch. 171, § 5, p. 348.

49-1804. Removal of abandoned vehicles by authorized officer. — Any authorized officer within the jurisdiction in which a vehicle is located, who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property to a garage or nearest place of safety.

Upon discovery of an abandoned vehicle which is not within the class of vehicles defined under "extraordinary circumstances," an authorized officer shall attach on the vehicle, in plain view, a notice that this vehicle will be towed away at the expiration of forty-eight (48) hours as an abandoned vehicle. The notice shall contain the name of the officer who prepared the notice; the name of the agency employing the officer; the time and date of attaching the notice; the time and date after which the vehicle will be removed; the telephone number and address of the agency where further information can be obtained. A reasonable attempt shall be made to notify by telephone the owner of any vehicle which has current license plates and registration as shown on the records of the department, prior to the expiration of the forty-eight (48) hour notice period, of the location of the vehicle and the time and date of intent to remove the vehicle. The inability of an officer to notify the owner shall not preclude the removal of the vehicle at the expiration of the forty-eight (48) hour period.

Any vehicle which does not have current or any license plate attached may be immediately removed to a safe place of storage.

History.

I.C., § 49-3608, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 5, p. 351; am. and redesig. 1988, ch. 265, § 422, p. 549; am. 2010, ch. 171, § 6, p. 348.

STATUTORY NOTES**Amendments.**

The 2010 amendment, by ch. 171, substituted "extraordinary circumstances" for

"emergency circumstances" in the first sentence in the second paragraph.

49-1807. Charges not otherwise provided for. — Every towing firm, employee or agent in the process of towing, removing or impounding a vehicle as directed by an authorized officer, except vehicles to be towed as part of an investigation or suspected stolen, shall upon request of the owner or his authorized agent, release the vehicle at the scene. If the vehicle is attached to the tow truck, or otherwise "in tow," the regular, scheduled tow fee may be charged. When the vehicle is not yet "in tow" at the time of request, the release must be made, and no charge may be assessed except a customary and reasonable charge for mileage one way from the towing firm's place of storage to the scene plus the usual fee for the tow truck operator. If the authorized fee is not tendered by the owner or his agent, the towing operator may complete the impoundment, towing or removal, as authorized.

History.

I.C., § 49-3612, as added by 1982, ch. 267, § 1, p. 690; redesign. and am. 1983, ch. 143,

§ 8, p. 351; am. and redesign. 1988, ch. 265, § 425, p. 549; am. 2010, ch. 171, § 7, p. 348.

STATUTORY NOTES**Amendments.**

The 2010 amendment, by ch. 171, substituted "except vehicles to be towed as part of

"an investigation" for "except vehicles found under extraordinary circumstances" in the first sentence.

49-1807A. Unauthorized removal of vehicle — Refusal to release vehicle. — (1) Any towing firm, employee or agent thereof called to the scene of an accident or disabled vehicle by an authorized officer and requested to remove a vehicle shall remove the vehicle and take it to the nearest garage or other place of safety as directed by the officer or, except as otherwise provided in this chapter, shall take the vehicle to such place as the owner or his authorized agent may reasonably request. The towing firm, employee or agent shall not be entitled to recover any storage, impound fees or other fees, except the scheduled tow fee, if the firm, employee or agent:

(a) Removes the vehicle to a place other than as directed by the officer or as reasonably requested by the owner or his authorized agent; or

(b) After removing the vehicle, refuses to release the vehicle to the owner, his authorized agent, insurance representative or lienholder for any reason other than the refusal of the owner, authorized agent, insurance representative or lienholder to pay the fees to which the towing firm is lawfully entitled. The refusal of the owner, his authorized agent, insurance representative or lienholder to pay fees to which the towing firm, employee or agent is not entitled pursuant to this subsection shall not be cause for the towing firm, employee or agent to refuse to release the vehicle.

(2) Upon release of the vehicle to the legal or registered owner, authorized agent or insurance representative, the towing company shall provide an itemized statement containing the following:

(a) Location from which the vehicle was towed;

(b) Storage location of the vehicle;

(c) Name, address and telephone number of the tow company;

(d) Year, make and model of the vehicle towed;

(e) License plate number of the vehicle towed;

(f) Itemized cost of towing and recovery charges;

(g) Daily storage charge and number of days stored.

History.

I.C., § 49-1807A, as added by 2000, ch. 308,

§ 1, p. 1044; am. 2010, ch. 171, § 8, p. 348; am. 2011, ch. 304, § 1, p. 870.

STATUTORY NOTES**Amendments.**

The 2010 amendment, by ch. 171, designated the formerly undesignated paragraph as subsection (1), redesignating the subordinate paragraphs; and added subsection (2).

The 2011 amendment, by ch. 304, inserted "insurance representative or lienholder" three times in paragraph (1)(b).

49-1807B. Idaho state police authorized tow list — Background checks. — The Idaho state police shall establish and maintain an authorized tow list. To determine the suitability of applicants for inclusion on the Idaho state police authorized tow list, the Idaho state police shall require every applicant towing firm owner, driver and operator to provide information and fingerprints necessary to obtain criminal history information from the Idaho state police bureau of criminal identification and the federal bureau of investigation. The cost of taking and processing such fingerprints shall be the responsibility of the applicant. Pursuant to section 67-3008, Idaho Code, the Idaho state police shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho state police bureau of criminal identification for a criminal records check of state and national databases. The Idaho state police may receive criminal history information from the Idaho state police bureau of criminal identification and from the federal bureau of investigation for the purpose of evaluating the fitness of applicants for inclusion on the Idaho state police authorized tow list.

History.

I.C., § 49-1807B, as added by 2012, ch. 99, § 1, p. 263.

49-1808. Storage of vehicle. — Whenever an authorized officer removes a vehicle from a highway, or from public or private property, he shall take, or cause to be taken, the vehicle to the nearest garage or other place of safety. Reasonable efforts shall be made to secure and prevent further damage to vehicles being stored. At the time of removal, the authorized officer shall complete a towed vehicle notice according to the provisions of section 49-1803A(2), Idaho Code.

(1) Any vehicle stored under the provisions of this chapter, except vehicles being stored as part of a law enforcement investigation, shall be made available for physical inspection by the legal or registered owner, authorized agent or insurance representative during reasonable business hours at no additional charge.

(2) Any vehicle towed as a result of extraordinary circumstances, or under the authority of section 49-662, Idaho Code, and stored in excess of thirty (30) days, not being held as part of a law enforcement investigation, may be declared as abandoned and processed for disposal under the provisions of this chapter.

History.

I.C., § 49-3613, as added by 1982, ch. 267, § 1, p. 690; redesig. and am. 1983, ch. 143, § 9, p. 351; am. and redesig. 1988, ch. 265, § 426, p. 549; am. 2010, ch. 171, § 9, p. 348.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 171, in the first paragraph, added the second sentence, and rewrote the last sentence, which formerly

read: "At the time of removal, the authorized officer or employee shall record the mileage of the vehicle"; and added subsections (1) and (2).

49-1809. Request by possessory lienholder for names and addresses of interested persons — Notice of sale to satisfy lien. —

(1) After acquiring possession of a vehicle in any manner authorized by the provisions of this chapter, the possessory lienholder shall make a request to the department for the names and addresses of all persons having an interest in the vehicle as appears in the department records. The possessory lienholder shall, upon receipt of this information, notify all legal or registered owners in accordance with section 49-1805, Idaho Code, unless otherwise already complied with. Whenever a vehicle has been removed under the provisions of this chapter and the possessory lienholder has sent the notice as provided, the possessory lienholder shall have a lien dependent upon possession for his compensation for towage and for caring for and keeping safe the vehicle for a period not exceeding sixty (60) days. If the vehicle is not recovered by the owner within that period or the owner is unknown, the possessory lienholder may satisfy his lien in the manner prescribed in this chapter. The lien shall not be assigned.

(2) No lien shall attach to any personal property in or on the vehicle. Personal property in or on the vehicle shall be given to the registered owner or owner's authorized agent upon demand. The possessory lienholder shall not be responsible for property after any vehicle has been disposed of pursuant to this chapter.

History.

I.C., § 49-3618, as added by 1982, ch. 267, § 427, p. 549; am. 2010, ch. 171, § 10, p. 348.
§ 1, p. 690; redesig. and am. 1983, ch. 143,

§ 10, p. 351; am. and redesig. 1988, ch. 265,

Amendments.

The 2010 amendment, by ch. 171, in the next-to-last sentence in subsection (1), substi-

tuted "possessory lienholder" for "keeper of the garage"; and in the second sentence in subsection (2), inserted "possessory."

49-1811. Sale of unclaimed vehicles. — (1) If the owner of a vehicle does not claim the vehicle before the day of sale or the owner or lienholder is unknown or cannot be located, the unclaimed vehicle shall be sold, pursuant to the notice of sale. Upon sale, the governmental entity conducting the sale shall apply for and the department shall issue a new certificate of title for the unclaimed vehicle. The new certificate of title shall be delivered to the new purchaser by the department. The application for the new certificate of title shall state that the unclaimed vehicle has been sold as abandoned and ownerless to the purchaser. The new certificate of title may thereafter be used by the purchaser to show ownership of the sold unclaimed vehicle.

(2) All sales of vehicles, pursuant to the provisions of this chapter, shall be under the direction of an appropriate governmental agency which shall prior to sale be satisfied that all prerequisites in this chapter have been satisfied.

History.

I.C., § 49-3615, as added by 1983, ch. 143, § 429, p. 549; am. 2010, ch. 171, § 11, p. 348.

§ 12, p. 351; am. and redesig. 1988, ch. 265,

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 171, in subsection (1), substituted "unclaimed vehicle"

for "abandoned vehicle" throughout, and in the first sentence, substituted "a vehicle" for "an abandoned vehicle".

49-1812. Claiming of vehicles. — (1) The owner of any vehicle removed under the provisions of this chapter except those vehicles impounded for investigation or suspected stolen, may take possession of the vehicle at any time prior to sale by proving ownership and paying the costs relative to towing and storing the vehicle and costs of advertising except as otherwise provided in section 49-1805, Idaho Code.

(2) A lienholder of any vehicle removed under the provisions of this chapter except those vehicles impounded for investigation or suspected stolen, may take possession of the vehicle at any time prior to the sale by proving the presence of the lien and by paying the costs relative to towing and storing the vehicle and costs of advertising. The lienholder may also take possession of the vehicle by purchasing the vehicle at the sale. Nothing in this chapter shall be construed to abate any cause of action that a lienholder has against the owner of an abandoned vehicle.

(3) Any insurer having a claim made against it pertaining to any vehicle removed under the provisions of this chapter, except those vehicles impounded for investigation or suspected stolen, may take possession of the vehicle at any time prior to the settlement of such claim following determination by such insurer that the vehicle has been determined by such insurer to be a total loss, obtaining verbal consent of the owner and by paying the lawfully entitled costs relative to towing and storing the vehicle. The insurer holding facility shall allow access to the vehicle owner or their representative upon the vehicle owner or their representative providing evidence of ownership. Personal property unrelated to the vehicle must be returned to the vehicle owner in conformance with section 49-1809(2), Idaho Code. If no total loss settlement is reached, the insurer shall return the vehicle to a mutually agreed upon location. Any holding facility that releases a vehicle consistent with the provisions of this subsection shall be held harmless for the release of such vehicle. The insurer shall provide the location and telephone number of the insurer holding facility to the vehicle owner or their representative.

History.

I.C., § 49-3616, as added by 1983, ch. 143, § 13, p. 351; am. and redesign. 1988, ch. 265,

§ 430, p. 549; am. 2002, ch. 366, § 4, p. 1032; am. 2010, ch. 171, § 12, p. 348; am. 2011, ch. 304, § 2, p. 870.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 171, in the section heading, deleted "abandoned" preceding "vehicles"; in subsections (1) and (2), substituted "any vehicle removed under the provisions of this chapter except those vehicles impounded for investigation or suspected sto-

len" for "an abandoned vehicle or any vehicle removed under extraordinary circumstances"; in subsection (1), deleted "abandoned" preceding "vehicle at any time"; and in subsection (2), twice deleted "abandoned" following "possession of the."

The 2011 amendment, by ch. 304, added

subsection (3).

49-1813. Removal without payment prohibited. — Unauthorized removal of any vehicle towed under the provisions of this chapter from the custody of the department, the sheriff, state police or police department, or from the custody of any person holding the vehicle for the department, the sheriff, state police or police department without payment in full of all charges and costs that have been incurred under the provisions of this chapter shall be a misdemeanor and the vehicle may be recovered and returned to the place of storage or disposed of by the department, the sheriff, state police or police department.

History.

I.C., § 49-3617, as added by 1983, ch. 143, § 431, p. 549; am. and redesign. 1988, ch. 265,

§ 14, p. 351; am. and redesign. 1988, ch. 265,

I.C., § 49-3617, as added by 1983, ch. 143, § 431, p. 549; am. 2010, ch. 171, § 13, p. 348.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 171, substituted “removal of any vehicle towed under the provisions of this chapter” for “removal of an

abandoned vehicle,” twice deleted “abandoned” preceding “vehicle,” and inserted “returned to the place of storage or.”

49-1814. Disposition of low-valued vehicles. — (1) If the vehicle is appraised at a value not exceeding seven hundred fifty dollars (\$750), the provisions of sections 49-1809 through 49-1811, Idaho Code, shall not apply, and the person or public agency which removed the vehicle shall:

(a) Prepare a certificate containing a description of the vehicle stating the appraised value of the vehicle and indicating one (1) of the following:

1. The agency which requested the tow has submitted a certified statement that a declaration of opposition has not been received.
2. The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

3. The vehicle is in a condition that vehicle identification numbers are not available to determine owners of record.

(b) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, to the possessory lienholder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the department.

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(b) of this section, to the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

- (a) Any member of the Idaho state police;

- (b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county;
- (c) Any regularly employed and salaried peace officer or other employee designated by the chief of police of any city;
- (d) Any officer or employee of the division of motor vehicles designated by the director;
- (e) Any regularly salaried employee of a city, county, or city and county designated by a board of county commissioners or by a city council; or
- (f) Any regularly employed and salaried peace officer or other employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based.

History.

I.C., § 49-3619, as added by 1982, ch. 267, § 1, p. 690; redesign. and am. 1983, ch. 143, § 15, p. 351; am. and redesign. 1988, ch. 265, § 432, p. 549; am. 1989, ch. 113, § 2, p. 255; am. 1995, ch. 116, § 28, p. 386; am. 1998, ch. 392, § 27, p. 11971; am. 2000, ch. 469, § 120, p. 1450; am. 2010, ch. 171, § 14, p. 348.

STATUTORY NOTES**Amendments.**

The 2010 amendment, by ch. 171, in the first paragraph in subsection (1), substituted “seven hundred fifty dollars (\$750)” for “two

hundred dollars (\$200)”; and in paragraph (1)(b), deleted “either” preceding “to the possessory lienholder.”

49-1815. Disposition of low-valued vehicles — Procedure. — The procedure for the disposition of low-valued vehicles is as follows:

(1) The person or agency which removes the vehicle shall, within fifteen (15) working days following the date of possession of the vehicle, make a request to the department for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the fifteen (15) day period unless the possessory lienholder has made a request to the department as provided in this section.

(2) The person or agency which removes the vehicle shall immediately upon receipt of this information send, by certified mail with return receipt requested, the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the department, and to any other person known to have an interest in the vehicle:

(a) A completed form entitled “Notice of Intent to Dispose of a Vehicle Valued at \$750 or Less”;

(b) A blank form entitled “Declaration of Opposition.”

(3) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following:

(a) A description of the vehicle, including make, year, model, identification number, license number, and state of registration;

(b) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle;

(c) The following statements and information:

1. The amount of the lien;

2. The facts concerning the claim which give rise to the lien;
3. The person has a right to a hearing in court;
4. If a hearing in court is desired, a declaration of opposition form shall be signed under penalty of perjury and returned to the agency which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle valued at \$750 or less form was mailed; and
5. The declarant may be liable for court costs if a judgment is entered in favor of the possessory lienholder.

(d) A statement that the possessory lienholder may dispose of the vehicle to a certified automobile parts dealer if it is not redeemed or if a declaration of opposition form is not signed and mailed to the agency which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle valued at \$750 or less form was mailed.

(4) If the agency which requested the tow receives a completed declaration of opposition form within the time prescribed, the vehicle shall not be disposed of for an additional fifteen (15) day period during which time the individual filing the declaration of opposition must file an action with the appropriate court and cause the possessory lienholder to be served with the summons and complaint. The filing and service of the action will stay disposal of the vehicle pending decision by the court unless the declarant subsequently releases his interest in the vehicle.

History.

I.C., § 49-3619, as added by 1983, ch. 143, § 16, p. 351; am. and redesign. 1988, ch. 265, § 171, § 15, p. 348. § 433, p. 549; am. 1989, ch. 113, § 3, p. 255; am. 1998, ch. 392, § 28, p. 1197; am. 2010, ch. 171, § 15, p. 348.

STATUTORY NOTES**Amendments.**

The 2010 amendment, by ch. 171, in subsection (1), inserted "possessory" in the last

sentence; and in paragraphs (2)(a), (3)(c)4., and (3)(d), substituted "\$750" for "\$200."

49-1816. Disposition of low-valued vehicle. — (1) Any vehicle determined to have a value not exceeding seven hundred fifty dollars (\$750) which was stored pursuant to this chapter, and which remains unclaimed, or for which reasonable towing and storage charges remain unpaid, may be disposed of to an automobile parts dealer not earlier than fifteen (15) days after the date the notice of intent to dispose of a vehicle valued at seven hundred fifty dollars (\$750) or less form was mailed, unless a declaration of opposition form has been signed and returned to the possessory lienholder.

(2) If the vehicle has been disposed of to an automobile parts dealer, the person or agency removing the vehicle shall forward the following forms and information to the department within five (5) days:

- (a) A statement, signed under penalty of perjury, that a properly executed declaration of opposition form was not received;
- (b) A copy of the notice sent to all interested parties;
- (c) A certification from the public agency which made the determination of value pursuant to section 49-1814, Idaho Code;
- (d) The proof of service or a copy of the court judgment;

- (e) The name, address, and telephone number of the certified automobile parts dealer who received the vehicle; and
- (f) The amount the person or agency removing the vehicle received for the vehicle.

History.

I.C., § 49-3620, as added by 1983, ch. 143, § 484, p. 549; am. 2010, ch. 171, § 16, p. 348.

STATUTORY NOTES**Amendments.**

The 2010 amendment, by ch. 171, in the section heading, deleted “automobile parts dealer” from the end; and in subsection (1), twice substituted “seven hundred fifty dollars

(\$750)” for “two hundred dollars (\$200)” and substituted “may be disposed of to an automobile parts dealer” for “shall be disposed of only to an automobile parts dealer”.

49-1819. Provisions of sections uniform throughout state. — The provisions of sections 49-1801 through 49-1818, Idaho Code, shall be applicable and uniform throughout the state and in all political subdivisions and no local authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of these sections.

History.

I.C., § 49-1819, as added by 2010, ch. 171, § 17, p. 348.

CHAPTER 19**MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT****SECTION.**

49-1901. Enactment of Western States Transportation Agreement.

49-1901. Enactment of Western States Transportation Agreement. — The Western States Transportation Agreement is hereby enacted into law and entered into with all other jurisdictions legally joining therein as follows:

WESTERN STATES TRANSPORTATION AGREEMENT

Pursuant to and in conformity with the laws of their respective jurisdictions, the participating jurisdictions, acting by and through their officials lawfully authorized to execute this agreement, do mutually agree as follows:

ARTICLE I**Findings and Purposes**

SECTION 1. Findings. The participating jurisdictions find that:

(a) The expanding regional economy depends on expanding transportation capacity;

(b) Highway transportation is the major mode for movement of people and goods in the western states;

(c) Uniform application in the west of more adequate vehicle size and weight standards will result in a reduction of pollution, congestion, fuel consumption and related transportation costs, which are necessary to permit increased productivity;

(d) A number of western states have already, to the fullest extent possible, adopted substantially the 1964 Bureau of Public Roads recommended vehicle size and weight standards; and

(e) The participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety.

SECTION 2. Purposes. The purposes of this agreement are to:

(a) Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.

(b) Establish a system authorizing the operation of vehicles traveling between two (2) or more participating jurisdictions at more adequate size and weight standards.

(c) Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement.

(d) Secure uniformity insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.

(e) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this article.

(f) Facilitate communication between legislators, state transportation administrators and commercial industry representatives in addressing the emerging highway transportation issues in participating jurisdictions.

ARTICLE II

Definitions

SECTION 1. As used in this agreement:

(a) "Cooperating committee" means a body composed of the designated representatives from the participating jurisdictions.

(b) "Designated representative" means a legislator or other person authorized under article X to represent the jurisdiction.

(c) "Jurisdiction" means a state of the United States or the District of Columbia.

(d) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two (2) or more participating jurisdictions.

ARTICLE III

General Provisions

SECTION 1. Qualifications for Membership. Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

SECTION 2. Cooperation. The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

SECTION 3. Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section hereof.

SECTION 4. Vehicle Laws and Regulations. This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or regulations thereof.

SECTION 5. Interpretation. The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.

SECTION 6. Amendment. This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to the requirements of section 4, article III. Any amendment shall be placed in writing and become a part hereof.

SECTION 7. Restrictions, Conditions or Limitations. Any jurisdiction entering this agreement shall provide each other participating jurisdiction with a list of any restriction, condition or limitation on the general terms of this agreement, if any.

SECTION 8. Additional Jurisdictions. Additional jurisdictions may become members of this agreement by signing and accepting the terms of the agreement.

ARTICLE IV

Cooperating Committee

SECTION 1. Each participating jurisdiction shall have two (2) designated representatives. Pursuant to section 2, article III, the designated representatives of the participating jurisdictions shall constitute the cooperating committee which shall have the power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in relation to vehicle size and weight related matters.

(b) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight or related matter when, in their

collective judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Recommend changes in law or policy with emphasis on compatibility of laws and uniformity of administrative rules or regulations which would promote effective governmental action or coordination in the field of vehicle size and weight related matters.

(d) Recommend improvements in highway operations, in vehicular safety, and in state administration of highway transportation laws.

(e) Perform functions necessary to facilitate the purposes of this agreement.

SECTION 2. Each designated representative of a participating jurisdiction shall be entitled to one (1) vote only. No action of the committee shall be approved unless a majority of the total number of votes cast by the designated representatives of participating jurisdictions are in favor thereof.

SECTION 3. The committee shall meet at least once annually and shall elect, from among its members, a chairman, a vice chairman and a secretary.

SECTION 4. The committee shall submit annually to the legislature of each participating jurisdiction a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable.

ARTICLE V

Objectives of the Participating Jurisdictions

SECTION 1. Objectives. The participating jurisdictions hereby declare that:

(a) It is the objective of the participating jurisdictions to obtain more efficient and more economical transportation by motor vehicles between and among the participating jurisdictions by encouraging the adoption of standards that will, as minimums, allow the operation of a vehicle or combination of vehicles in regular operation on all state highways, except those determined through engineering evaluation to be inadequate, with a single-axle weight not in excess of 20,000 pounds, a tandem-axle weight not in excess of 34,000 pounds, and a gross vehicle or combination weight not in excess of that resulting from application of the formula:

$$W = 500 ((LN/N-1) + 12N + 36)$$

where W = maximum weight in pounds carried on any group of two or more axles computed to nearest 500 pounds.

L = distance in feet between the extremes of any group of two or more consecutive axles.

N = number of axles in group under consideration.

(b) It is the further objective of the participating jurisdictions that the operation of a vehicle or combination of vehicles in interstate commerce according to the provisions of subsection (a) of this section be authorized

under special permit authority by each participating jurisdiction for vehicle combinations in excess of statutory weight of 80,000 pounds and/or statutory lengths.

(c) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle or combination of vehicles between and among the participating jurisdictions under the provisions of subsection (a) or (b) of this section, and to that end the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight related matters including, but not limited to, the development of: uniform enforcement procedures; additional vehicle size and weight standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules and regulations for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; and such other matters as may be pertinent.

(d) The cooperating committee may recommend that the participating jurisdictions jointly secure congressional approval of this agreement and, specifically of the vehicle size and weight standards set forth in subsection (a) of this section.

(e) It is the further objective of the participating jurisdictions to:

- (1) Establish transportation laws and regulations to meet regional needs and to promote an efficient, safe and compatible transportation network;
- (2) Develop standards that facilitate the most efficient and environmentally sound operation of vehicles on highways, consistent with and in recognition of principles of highway safety;
- (3) Establish programs to increase productivity and reduce congestion, fuel consumption and related transportation costs and enhance air quality through the uniform application of state vehicle regulations and laws.

ARTICLE VI

Entry Into Force and Withdrawal

SECTION 1. This agreement shall enter into force when enacted into law by any two (2) or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in section 7, article III.

SECTION 2. Any participating jurisdiction may withdraw from this agreement by cancelling the same but no such withdrawal shall take effect until thirty (30) days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all other participating jurisdictions.

ARTICLE VII

Construction and Severability

SECTION 1. This agreement shall be liberally construed so as to effectuate the purposes thereof.

SECTION 2. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction or the applicability thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdictions affected as to all severable matters.

ARTICLE VIII

Filing of Documents

SECTION 1. A copy of this agreement, its amendments, and rules or regulations promulgated thereunder and interpretations thereof shall be filed in the highway department in each participating jurisdiction and shall be made available for review by interested parties.

ARTICLE IX

Funding

SECTION 1. Funds for the administration of this agreement, including participation in the cooperating committee and the actual expenses of the designated representatives, shall be budgeted or expensed as determined appropriate.

ARTICLE X

Selection of Designated Representatives

SECTION 1. The process for selecting the designated representatives to the cooperating committee shall be established by law under this section.

SECTION 2. The persons authorized to represent the state of Idaho as the designated representatives to the committee shall be the chairman of the senate transportation committee and the chairman of the house transportation and defense committee, or a legislator or a state agency official that the chairman may assign.

SECTION 3. The transportation chairman in each house shall also designate one (1) alternate designated representative who shall also be a legislator or state agency official to serve in his absence.

History.

I.C., § 49-2801, as added by 1975, ch. 51, § 1, p. 99; am. and redesign. 1988, ch. 265, § 438, p. 549; am. 2005, ch. 64, § 1, p. 223; am. 2012, ch. 255, § 5, p. 703.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 255, substi-

tuted "Western States Transportation" for "multistate" in the section heading and sub-

stituted "Western States Transportation" for "Multistate Highway Transportation" twice in the text.

Legislative Intent.

Section 1 of S.L. 2012, ch. 255 provided: "Legislative Intent. It is the intent of the Legislature to repeal statutes involving inactive programs that require appointment of members of the Legislature. In addition to the repealed sections in this act, it is legislative intent that no legislative appointment be made for the purposes of the Idaho Commemorative Silver Medallions as provided in Sec-

tion 67-1223, Idaho Code, until the State Treasurer issues a new series of medallions at which time such legislative appointments would be appropriate."

Compiler's Notes.

The following states are members of the western states transportation alliance: Idaho, Montana, Oregon, Wyoming, Nevada, Utah, Colorado, Arizona, North Dakota, and New Mexico.

Effective Dates.

Section 6 of S.L. 2012, ch. 255 declared an emergency. Approved April 3, 2012.

CHAPTER 21

COMMERCIAL DRIVER SCHOOLS

SECTION.

49-2101 — 49-2106. [Repealed.]

49-2101. Duties of the state board of education — Rules. [Repealed.]

STATUTORY NOTES

Compiler's Notes.

This section, which comprised 1965, ch. 145, § 2, p. 283; am. 1967, ch. 178, § 1, p. 590; am. and redesig. 1988, ch. 265, § 446, p.

549; am. 2004, ch. 223, § 2, p. 664, was repealed by S.L. 2009, ch. 251, § 1. See § 54-5401 et seq.

49-2102. Schools — License required — Contents of application for license. [Repealed.]

STATUTORY NOTES

Compiler's Notes.

This section, which comprised 1965, ch. 145, § 3, p. 283; am. 1967, ch. 178, § 2, p. 590; am. and redesig. 1988, ch. 265, § 447, p.

549; am. 2004, ch. 223, § 3, p. 664, was repealed by S.L. 2009, ch. 251, § 1. See § 54-5401 et seq.

49-2103. Instructors — License required — Contents of application for license — Public school contracts. [Repealed.]

STATUTORY NOTES

Compiler's Notes.

This section, which comprised 1965, ch. 145, § 4, p. 283; am. 1967, ch. 178, § 3, p. 590; am. 1987, ch. 334, § 1, p. 707; am. and

redesig. 1988, ch. 265, § 448, p. 549; am. 1994, ch. 347, § 5, p. 1098; am. 2004, ch. 223, § 4, p. 664, was repealed by S.L. 2009, ch. 251, § 1. See § 54-5401 et seq.

49-2104. Expiration and renewal of licenses — Fees. [Repealed.]**STATUTORY NOTES****Compiler's Notes.**

This section, which comprised 1965, ch. 145, § 5, p. 283; am. 1967, ch. 178, § 4, p. 590; am. and redesig. 1988, ch. 265, § 449, p. 549; am. 1993, ch. 180, § 1, p. 461, was repealed by S.L. 2009, ch. 251, § 1. See § 54-5401 et seq.

49-2105. Refusal, suspension or revocation of licenses. [Repealed.]**STATUTORY NOTES****Compiler's Notes.**

This section, which comprised 1965, ch. 145, § 6, p. 283; am. 1967, ch. 178, § 5, p. 590; am. and redesig. 1988, ch. 265, § 450, p. 549, was repealed by S.L. 2009, ch. 251, § 1. See § 54-5401 et seq.

49-2106. Exclusions — Free instruction — Colleges, universities and high schools. [Repealed.]**STATUTORY NOTES****Compiler's Notes.**

This section, which comprised 1965, ch. 145, § 7, p. 283; am. and redesig. 1988, ch. 265, § 451, p. 549; am. 1994, ch. 163, § 1, p. 371, was repealed by S.L. 2009, ch. 251, § 1. See § 54-5401 et seq.

CHAPTER 22**HAZARDOUS MATERIALS/HAZARDOUS WASTE TRANSPORTATION ENFORCEMENT****SECTION.**

49-2203. Endorsement requirements for

transporters of hazardous materials.

49-2203. Endorsement requirements for transporters of hazardous materials. — (1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous material in such quantity and under such conditions that such vehicle is required to be placarded pursuant to 49 CFR part 172 or such vehicle's cargo is regulated by 49 CFR part 171 or is required to meet the manifest requirements as set forth under the rules of the department of environmental quality, shall first procure from the department an annual vehicle registration endorsement. This registration endorsement shall be available for examination, unless procured via the state web portal, and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall not apply to vehicles owned by any city, county, state or federal governmental department or agency or special purpose district created pursuant to law.

(2) The fee for an annual vehicle registration endorsement for the transportation of hazardous materials shall be ten dollars (\$10.00). Any carrier required to pay the fee assessed pursuant to this section is authorized to pass along such fee to the shipping party. Vendors selling endorse-

ments on behalf of the board shall be reimbursed at the rate of forty cents (40¢) per endorsement. No portion of the annual endorsement fee shall be prorated, reduced or transferred to another vehicle.

(3) The operation of a vehicle, which is subject to the endorsement requirements of this section, in a negligent manner is a violation of the provisions of this chapter.

History.

I.C., § 49-2505, as added by 1986, ch. 231, § 4, p. 627; am. 1987, ch. 345, § 2, p. 733; am.

and redesign. 1988, ch. 265, § 455, p. 549; am. 1990, ch. 331, § 2, p. 908; am. 2001, ch. 103, § 89, p. 253; am. 2010, ch. 260, § 1, p. 662.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 260, in subsection (1), in the first sentence, twice substituted "CFR" for "code of federal regulations," and deleted "or single trip vehicle registration endorsement for each vehicle so driven" from the end, and in the second sentence, inserted "unless procured via the state web portal";

and in the first sentence in subsection (2), substituted "ten dollars (\$10.00)" for "three dollars (\$3.00)," and deleted "if purchased at the time of registration or renewal, or five dollars (\$5.00) if purchased at any time thereafter and the fee for a single trip vehicle registration endorsement shall be five dollars (\$5.00)."

CHAPTER 24

MISCELLANEOUS

SECTION.

49-2427. Identification of state police vehicles used for highway patrol.

SECTION.

49-2444. Identification card issued — Four-year or eight-year.

49-2417. Owner's tort liability for negligence of another — Subrogation.

JUDICIAL DECISIONS

ANALYSIS

Ownership of car.

Supplemental insurance.

Use with permission.

Ownership of Car.

Complaint under this section against a vehicle owner, for allowing a dangerous vehicle to be driven on a public highway, contained no allegation that the claim was based on the employer-employee relationship between the driver and the vehicle owner, therefore, § 6-1607, covering tort claims based upon the employer-employee relationship did not apply, although the driver was in fact employed by the vehicle owner. *Nava v. Rivas-Del Toro*, 151 Idaho 853, 264 P.3d 960 (2011).

Supplemental Insurance.

The 2007 amendment of § 49-1212(12),

prohibiting insurers from providing step-down limits for household members under an insured's primary motor vehicle policy, is not applicable to supplemental liability (umbrella) policies. *Farm Bureau Mut. Ins. Co. v. Schrock*, 150 Idaho 817, 252 P.3d 98 (2011).

Use with Permission.

District court properly determined that a vehicle's owner gave the driver permission to drive where the owner's instruction to the driver to drive the vehicle to a gas station and back constituted express permission to operate the vehicle. *Or. Mut. Ins. Co. v. Farm Bureau Mut. Ins. Co.*, 148 Idaho 47, 218 P.3d 391 (2009).

49-2427. Identification of state police vehicles used for highway patrol. — Every motor vehicle other than motorcycles, owned by the state of Idaho and used as a state police highway patrol vehicle shall be marked as provided by section 49-2426, Idaho Code, and shall in addition, be painted with a black body and shall be identified in one (1) of the following manners:

(1) By having a white stripe, at least six (6) inches in width, applied completely around the vehicle;

(2) By having a blue light mounted on the top of the vehicle which must be visible from any direction; or

(3) By having two (2) white stripes at least one and one-half (1 1/2) inches in width applied from the center point of the hood across the hood on each side and extending diagonally down to the bottom of the doors on each side of the vehicle. No other state agency, person, or local unit of government shall have any vehicle with a stripe or stripes from the center point of the hood across the hood on each side and extending diagonally down to the bottom of the doors on each side of the vehicles.

History.

I.C., § 49-1701A, as added by 1969, ch. 327, § 1, p. 1033; am. 1970, ch. 220, § 1, p. 619; am. 1976, ch. 56, § 1, p. 195; am. 1979, ch. 70, § 2, p. 176; am. and redesig. 1988, ch. 265, § 487, p. 549; am. 2009, ch. 85, § 1, p. 235.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 85, in the introductory paragraph, deleted "with a white top" following "black body"; in subsections (1)

and (3), substituted "applied" for "painted"; and, in the last sentence in subsection (3), deleted "which is painted" preceding "with a stripe or stripes."

49-2444. Identification card issued — Four-year or eight-year. —

(1) The department shall issue a distinguishing identification card that shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall have printed on it the applicant's full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant's identification card shall contain his or her alternative Idaho mailing address in place of his or her Idaho residence address. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the

applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for a four-year identification card issued to persons twenty-one (21) years of age or older shall be ten dollars (\$10.00) of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be ten dollars (\$10.00), of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for an eight-year identification card shall be twenty dollars (\$20.00) of which ten dollars (\$10.00) shall be retained by the county and credited to the current expense fund, and ten dollars (\$10.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person under eighteen (18) years of age shall expire five (5) days after the person's eighteenth birthday, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the person's twenty-first birthday, except as otherwise provided in subsection (3) of this section.

Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for an identification card. Any registration information so supplied shall be transmitted by the department to the selective service system.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, shall be renewable on or before its expiration, but not more than twenty-five (25) months before, and upon application and payment of the required fee.

(3) Every identification card issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of identification card issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued an identification card with an expiration date of one (1) year from the date of issuance.

(4) When an identification card has been expired for less than twenty-five (25) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than twenty-five (25) months, the application shall expire, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card, except as otherwise provided in subsection (3) of this section.

(5)(a) If an Idaho identification card has expired or will expire and the identification cardholder is temporarily out of state except on active military duty, the identification cardholder may request in writing on a form prescribed by the department an extension of the identification card. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be no more than a twelve (12) month period. If the department determines that an extension of the identification card is necessary, it may issue an identification card showing the date to which the expired identification card is extended. Identification card extensions are limited to two (2) consecutive extensions per identification cardholder.

(b) Upon returning to the state of Idaho, the identification cardholder shall, within ten (10) days, apply for a renewal of the expired identification card and surrender the extended identification card and the expired identification card.

(6) An Idaho identification card issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, and the identification card shall remain in full force and effect sixty (60) days following the date the cardholder is released from active duty.

(7) A person possessing an identification card who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the identification card by the imprinting of the word "donor" on the identification card. The provisions of this subsection shall apply to persons possessing an identification card who are sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with.

(8) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(9) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(10) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within thirty (30) days, notify the transportation department in writing of the old and new addresses.

(11) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the canceled identification card to the department.

(12) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

(13) The department may issue a no-fee identification card to an individual whose driver's license has been canceled and voluntarily surrendered as provided in section 49-322(5), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains canceled.

(14) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (10) of this section.

History.

I.C. § 49-3003, as added by 1976, ch. 15, § 1, p. 44; am. 1982, ch. 95, § 127, p. 185; am. and redesig. 1988, ch. 265, § 499, p. 549; am. 1989, ch. 310, § 30, p. 769; am. 1990, ch. 45, § 40, p. 71; am. 1991, ch. 203, § 2, p. 482; am. 1992, ch. 115, § 37, p. 345; am. 1992, ch. 118, § 3, p. 391; am. 1994, ch. 85, § 2, p. 200; am. 1998, ch. 110, § 32, p. 375; am. 1999, ch. 79, § 2, p. 225; am. 1999, ch. 81, § 21, p. 237;

am. 1999, ch. 317, § 3, p. 797; am. 1999, ch. 318, § 4, p. 803; am. 2000, ch. 56, § 3, p. 111; am. 2000, ch. 304, §§ 3, 4, p. 1035; am. 2001, ch. 74, § 9, p. 171; am. 2001, ch. 332, § 5, p. 1165; am. 2002, ch. 161, § 2, p. 474; am. 2002, ch. 171, § 18, p. 493; am. 2006, ch. 265, § 5, p. 821; am. 2008, ch. 63, § 5, p. 164; am. 2009, ch. 331, § 8, p. 947; am. 2010, ch. 225, § 7, p. 501; am. 2011, ch. 60, § 7, p. 124; am. 2012, ch. 32, § 3, p. 96.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 331, increased the fees in the third paragraph in subsection (1).

The 2010 amendment, by ch. 225, added the fifth sentence in subsection (1).

The 2011 amendment, by ch. 60, substituted "section 49-322(5), Idaho Code" for "sec-

tion 49-322(4), Idaho Code" in the first sentence of subsection (11).

The 2012 amendment, by ch. 32, substituted "twenty-five (25) months" for "twelve (12) months" once in subsection (2) and twice in subsection (4); added subsections (5) and (6) and redesignated the remaining subsections accordingly; and substituted "subsection

(10)" for "subsection (8)" near the end of subsection (14).

Legislative Intent.

Section 1 of S.L. 2009, ch. 331 provided: "Legislative Intent. It is the intent of the Legislature that the moneys raised through the increase in fees authorized by the provisions of this act be expended in the following order on and for the following:

"(a) First, moneys raised from the increase in fees should be expended to address any revenue deficit or shortfall that the Division of Motor Vehicles is operating under as of June 30, 2009.

"(b) Second, any moneys remaining after the expenditures relating to subsection (a) of this section, should be expended on improvements to the Division of Motor Vehicle's technology operations and improvements.

"(c) Third, any moneys remaining after the expenditures relating to subsections (a) and

(b) of this section, should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems.

"(d) The department should review approximately every five (5) years the fees provided for in this act and recommend appropriate changes to such fees in the Legislature."

Effective Dates.

Section 9 of S.L. 2009, ch. 331 provided that the act should take effect on and after January 1, 2010.

Section 8 of S.L. 2010, ch. 225 provided that the act should take effect on and after January 1, 2011.

Section 8 of S.L. 2011, ch. 60 provided that the act should take effect on and after January 30, 2012. Chapter 60 became law without the signature of the governor.

CHAPTER 28

MOTOR VEHICLE SERVICE CONTRACTS

SECTION.

49-2803. Service contract reimbursement policy requirements.

49-2805A. Deceptive solicitation of motor vehicle service contracts prohibited — penalties.

SECTION.

49-2806. Prohibited acts.

49-2811. Enforcement by attorney general.

49-2803. Service contract reimbursement policy requirements.

— (1) Mandatory insurance.

(a) No motor vehicle service contract shall be issued, sold, or offered for sale in this state unless the motor vehicle service contract provider is insured under a service contract liability policy issued by an insurer admitted to do business in this state or as otherwise provided in subsection (2) of this section. The policy shall provide that the insurer will pay to, or on behalf of, the motor vehicle service contract provider all sums which the motor vehicle service contract provider is legally obligated to pay according to the motor vehicle service contract provider's contractual obligations under the motor vehicle service contracts issued or sold by the motor vehicle service contract provider.

(b) All service contract liability policies insuring motor vehicle service contracts issued, sold or offered for sale in this state must conspicuously state that, upon failure of the motor vehicle service contract provider to perform under the contract, the issuer of the policy shall pay on behalf of the provider any sums which the provider is legally obligated to perform, according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

(2) The service contract liability policy shall be obtained from an insurer authorized, registered or otherwise permitted to transact insurance in this state or a surplus lines insurer meeting the requirements of chapter 12, title

41, Idaho Code, and which insurer or surplus lines insurer meets one (1) of the following requirements:

- (a)(i) Maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars (\$15,000,000); and
- (ii) Annually file copies of the insurer's financial statements, its NAIC annual statement and the actuarial certification required by and filed in the insurer's state of domicile; or
- (b)(i) Maintain surplus as to policyholders and paid-in capital of less than fifteen million dollars (\$15,000,000) but at least equal to ten million dollars (\$10,000,000); and
- (ii) Maintain a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three (3) to one (1); and
- (iii) Annually files copies of the insurer's audited financial statements, its NAIC annual statement and the actuarial certification required by and filed in the insurer's state of domicile.

(3) Premiums. Premiums are defined as those funds paid by or on behalf of the motor vehicle service contract provider to the liability insurance policy issuer for such risks covered under such liability insurance policy. Such premiums or the method of developing such premiums shall be filed with the director of the department of insurance for approval.

(4) Cancellation of service contract liability insurance policy. The issuer of a service contract liability policy may not cancel the policy until a thirty (30) days' advance notice of cancellation has been mailed or delivered to each motor vehicle service contract provider. The cancellation of a service contract liability policy shall not reduce the insurer's responsibility for motor vehicle service contracts issued by motor vehicle service contract providers prior to the date of the cancellation.

History.

I.C. § 49-2803, as added by 1993, ch. 340, § 1, p. 1272; am. 2002, ch. 299, § 1, p. 854;

am. 2010, ch. 243, § 1, p. 625.

STATUTORY NOTES

Amendments.

The 2010 amendment, by ch. 243, in the first sentence in paragraph (1)(a), added "or as otherwise provided in subsection (2) of this

section"; and rewrote subsection (2), which dealt with the reserves to be maintained on service contract liability policies issued.

49-2805A. Deceptive solicitation of motor vehicle service contracts prohibited — penalties. — (1) It shall be unlawful for any company to directly or indirectly represent in any manner, whether by written solicitation, advertisement, or telemarketing, a false, deceptive or misleading statement with regard to:

- (a) Such company's affiliation with a motor vehicle manufacturer, recreational vehicle manufacturer or dealer;
- (b) Such company's possession of information regarding a motor vehicle owner's current motor vehicle manufacturer or recreational vehicle manufacturer original equipment warranty;
- (c) All indications that such company's records show that a motor vehicle

or recreational vehicle owner's current motor vehicle manufacturer or recreational manufacturer's original equipment warranty is nearing or past expiration;

(d) A requirement that such motor vehicle, or recreational vehicle owner register for a new motor vehicle service contract with such company to maintain coverage under the motor vehicle or recreational vehicle owner's current service contract or manufacturer's original equipment warranty.

(2) In addition to any other penalty provided by law, any company who violates any provisions of this section shall be subject to prosecution for a misdemeanor for each violation, plus a civil penalty of one thousand dollars (\$1,000) a day for each violation.

(3) This section shall be enforced by the Idaho attorney general or local prosecuting attorney.

History.

I.C., § 49-2805A, as added by 2010, ch. 243, § 2, p. 625.

STATUTORY NOTES

Prior Laws.

Former § 49-2805A, which comprised I.C., § 49-2805A, as added by 2009, ch. 276, § 1, p. 838, became null and void, pursuant to S.L. 2009, ch. 276, § 4, effective July 1, 2010.

49-2806. Prohibited acts. — (1) A motor vehicle service contract provider may not use in its name, contracts or literature:

(a) Any of the words insurance, casualty, surety, mutual or any other words descriptive of the insurance, casualty or surety business; or
(b) A name deceptively similar to the name or description of any insurance or surety corporation, or any other motor vehicle service contract provider.

(2) A motor vehicle service contract provider, its representative or any other person may not make, permit or allow to be made any false, deceptive or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle service contract.

(3) A motor vehicle service contract provider, its representative or any other person may not make, permit or allow to be made any advertisement to sell a motor vehicle service contract that does not comply with section 49-2805A, Idaho Code.

History.

I.C., § 49-2806, as added by 1993, ch. 340, § 1, p. 1272; am. 2009, ch. 276, § 2, p. 838.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 276, in subsection (2), inserted "or any other person" and "deceptive" and added subsection (3).

Effective Dates.

Section 4 of S.L. 2009, ch. 276 provided that the act should take effect on and after July 1, 2009.

49-2811. Enforcement by attorney general. — The attorney general may, when in the public interest, bring an action pursuant to the Idaho consumer protection act, chapter 6, title 48, Idaho Code, against any motor vehicle service contract provider, its representative or any other person for a violation of the provisions of section 49-2805A or 49-2806, Idaho Code. For purposes of such action, violations of the provisions of section 49-2805A or 49-2806, Idaho Code, shall be deemed to be violations of the Idaho consumer protection act. In any such action, the attorney general and the district court shall have the same authority as is granted the attorney general and the district court under the Idaho consumer protection act.

History.

I.C., § 49-2811, as added by 2009, ch. 276,
§ 3, p. 838.

STATUTORY NOTES

Effective Dates.

Section 4 of S.L. 2009, ch. 276 provided that

the act should take effect on and after July 1, 2009.

CHAPTER 29

RURAL ECONOMIC DEVELOPMENT AND INTEGRATED FREIGHT TRANSPORTATION PROGRAM

SECTION.

49-2902. Interagency working group created.

49-2904. Rural economic development and
integrated freight transporta-
tion revolving loan fund.

SECTION.

49-2905. State rail and intermodal facility
system plan.

49-2902. Interagency working group created. — (1) An interagency working group is hereby created to advise the department of agriculture on issues and policies in support of the department of agriculture's administration of the rural economic development and integrated freight transportation program established in section 49-2901, Idaho Code. The interagency working group shall participate in planning and identifying program needs and shall carry out its duties specified in section 49-2903, Idaho Code. Before recommending state funding, using state dedicated funds, and recommending priorities, the interagency working group shall seek pertinent information, facts and data from state and local governments, and agencies regarding rural freight transportation issues.

(2) The interagency working group shall be composed of eight (8) members:

(a) Four (4) members shall be appointed by the director of the Idaho transportation department, two (2) of whom shall be employees of the Idaho transportation department with a working knowledge of rail and truck freight transportation and intermodal entities, one (1) member, not a state employee, shall represent freight shipping interests, and one (1)

member shall be a representative from the local highway technical assistance council;

(b) Three (3) members shall be appointed by the director of the department of agriculture, two (2) of whom shall be employees of the department of agriculture with a working knowledge of economic development issues, and one (1) member, not a state employee, shall represent business development and financing interests; and

(c) One (1) member shall be appointed by the director of the department of commerce and shall be an employee with knowledge of rural economic development issues.

(d) At the beginning of each state fiscal year, the director of the Idaho transportation department shall designate one (1) of his appointees as cochairman, and the director of the department of agriculture shall designate one (1) of his appointees as cochairman.

(e) Each member appointed shall serve at the pleasure of the appointing authority, provided however, the service of state employee members shall run concurrently with their state employment. Nonstate employee members shall serve one (1) term of five (5) years, but may be appointed to serve nonconsecutive terms, and shall be reimbursed according to the provisions of section 59-509(b), Idaho Code.

(f) The interagency working group shall meet at such times as necessary and appropriate to review applications for funds distributed pursuant to the provisions of this chapter, but not less frequently than annually.

(3) The department of agriculture shall determine and provide for amounts appropriated to the fund, from interest only an annual amount not to exceed three percent (3%) of total assets for planning and operating expenses and staff assistance and support from the department of agriculture and the Idaho transportation department in order to administer the program, and to administer the fund established in section 49-2904, Idaho Code.

History.

I.C., § 49-2902, as added by 2006, ch. 413, § 3, p. 1252; am. 2007, ch. 339, § 2, p. 990; am. 2007, ch. 360, § 16, p. 1061; am. 2008, ch. 27, § 11, p. 51; am. 2008, ch. 153, § 1, p. 443; am. 2009, ch. 198, § 1, p. 635.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 198, in subsection (3), inserted "from interest only" and

"of total assets" and substituted "a one-time amount" for "an annual amount."

49-2904. Rural economic development and integrated freight transportation revolving loan fund. — (1) The rural economic development and integrated freight transportation revolving loan fund is hereby created in the state treasury. The department of agriculture is authorized to administer the rural economic development and integrated freight transportation revolving loan fund. Moneys in the fund shall be used only for the purposes specified in this chapter. Surplus moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in

the state treasury. Interest earned on the investments shall be returned to the rural economic development and integrated freight transportation revolving loan fund.

(2) Moneys in the fund are subject to appropriation and may consist of appropriations, grants, repayment of loans and other revenues from any other sources.

(3) Moneys in the fund may be used for loans or grants for qualified rural projects for the development and preservation of intermodal rail and truck services and facilities upon terms and conditions to be determined by the department of agriculture with the assistance and advice of the interagency working group as appropriate, for the purpose of:

(a) Rehabilitating, or improving rail lines to preserve essential local rail service;

(b) Purchasing or rehabilitating railroad equipment necessary to maintain essential rail service;

(c) Construction of loading or reloading facilities or other capital improvements including building or improving local transportation infrastructure, to increase business and commerce, and to improve shipping service; or

(d) Coordinating intermodal truck and rail traffic for integrated rural freight transportation.

(4) For the purposes of this chapter, "qualified lines" means class III short lines, branch lines of class I railroads leased or operated by a class III railroad, branch lines of class II railroads, and lines owned by public entities including port districts and intermodal commerce authorities. Definitions of class I, II and III railroads shall be as defined by the federal railroad administration.

(5) Moneys received by the department of agriculture from loan payments or other revenues shall be redeposited in the rural economic development and integrated freight transportation fund. Repayment of loans made under this chapter shall occur within a period as set by the department, but no repayment which exceeds fifteen (15) years shall be allowed. The repayment schedule and rate of interest shall be determined before the moneys are distributed.

(6) Moneys distributed under the provisions of this chapter shall be provided as loans to qualified lines or shippers.

(7) As interest funds allow, authorize matching grants not to exceed one hundred thousand dollars (\$100,000) per grant for planning and development of intermodal commerce authorities as provided in chapter 22, title 70, Idaho Code, upon conditions established in subsection (3) of this section.

History.

I.C., § 49-2903, as added by 2001, ch. 348, § 2, p. 1224; am. and redesign. 2006, ch. 413, § 5, p. 1252; am. 2007, ch. 339, § 4, p. 990; am. 2007, ch. 360, § 18, p. 1061; am. 2008, ch. 154, § 1, p. 444; am. 2009, ch. 92, § 1, p. 268.

STATUTORY NOTES

Amendments.

The 2009 amendment, by ch. 92, in subsection (7), inserted "interest," substituted "au-

thorize matching grants" for "authorize one (1) matching grant per year," and inserted "per grant."

49-2905. State rail and intermodal facility system plan. — (1) The Idaho transportation department shall prepare and periodically update a state rail and intermodal facility system plan, a primary objective of which is to identify, evaluate and encourage the development and preservation of essential rail and truck intermodal services. The plan shall:

- (a) Identify and describe the state's rail system;
- (b) Prepare state rail system maps;
- (c) Identify and evaluate mainline capacity issues in cooperation with the railroads;
- (d) Identify and evaluate rail access and congestion issues;
- (e) Identify and evaluate rail commodity flows and traffic types;
- (f) Identify lines and corridors that have been rail banked or preserved;
- (g) Identify and evaluate other rail and intermodal issues affecting the state's freight transportation system and regional and local economies;
- (h) Identify and evaluate those rail freight lines that are potentially subject to abandonment in the future because of unmet capital needs or other reasons, or have recently been approved for abandonment but the track improvements are still in place;
- (i) Whenever possible provide priorities for determining which rail lines or intermodal commerce authorities should receive state support, and provide to the interagency working group supporting information used in establishing such priorities for use by the interagency working group in advising the department of agriculture. The priorities should include:
 - (i) The anticipated benefits to the state and local economy;
 - (ii) Coordinated freight transportation system including the anticipated cost of road and highway improvements necessitated by the proposed project;
 - (iii) Establishment of an intermodal facility, if indicated;
 - (iv) The likelihood the qualified line receiving funding can meet operating costs from freight charges, surcharges on rail traffic and other funds; and
 - (v) The impact of abandonment or capacity constraints if the project does not obtain state support; and
- (j) Identify and describe the state's intermodal rural rail and truck freight system by:
 - (i) Preparing state intermodal and regional freight transfer station system maps;
 - (ii) Identifying and evaluating intermodal and truck and rail freight transfer capacity and coordination issues in cooperation with local government and the railroad and truck interests;
 - (iii) Identifying and evaluating intermodal and freight transfer access and highway capacity issues; and
 - (iv) Identifying and evaluating major freight commodity origins, destinations and traffic flows by mode and corridor.
- (2) The Idaho transportation department shall provide information to the interagency working group for assisting and advising the department of agriculture to monitor the status of the state's mainline, short line and branch line common carrier railroads through the state rail planning

process and various analyses. In addition, the Idaho transportation department shall submit to the interagency working group, its evaluation of alternatives to abandonment prior to federal surface transportation board proceedings, where feasible.

(3) The state rail and intermodal facility system plan may be prepared in conjunction with any rail plan currently prepared by the Idaho transportation department pursuant to other federal rail assistance programs, or which may be enacted, including if applicable, the federal local rail freight assistance program.

(4) The Idaho transportation department shall determine the amount of moneys necessary to prepare and periodically update the state rail plan required by subsection (1) of this section, and communicate that amount to the department of agriculture who shall annually provide to the transportation department moneys in an amount not to exceed one percent (1%) of the total assets in the fund established by section 49-2904, Idaho Code, to prepare and periodically update the state rail plan. The Idaho transportation department is hereby authorized to accumulate these funds not to exceed an aggregate amount of seventy-five thousand dollars (\$75,000) for preparing and periodically updating the state rail plan.

History.

I.C., § 49-2904, as added by 2001, ch. 348, § 2, p. 1224; am. and redesig. 2006, ch. 413, § 6, p. 1252; am. 2007, ch. 339, § 5, p. 990; am. 2007, ch. 360, § 19, p. 1061; am. 2008, ch. 27, § 13, p. 53; am. 2012, ch. 318, § 1, p. 872.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 318, added subsection (4).

